

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

FILED
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JUL 13 2011

SANDRA K MARKHAM, Clerk
By: Karen Wilkes

THE STATE OF ARIZONA

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER

Defendant.

No. P1300CR2008-1339

BEFORE:

THE HONORABLE WARREN R. DARROW
JUDGE PRO TEMPORE OF THE SUPERIOR COURT
DIVISION SIX
YAVAPAI COUNTY, ARIZONA

PRESCOTT, ARIZONA
TUESDAY, AUGUST 31, 2010

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

KATHY JOHNSTON, RPR
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928.776.1169

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A P P E A R A N C E S

On Behalf of the State:

Mr. Joseph Butner and Mr. Jeffrey Paupore
Yavapai County Attorney's Office
255 East Gurley Street
Prescott, Arizona 86301

On Behalf of the Defendant:

Mr. John Sears
P.O. Box 4080
Prescott, Arizona 86302

Mr. Larry Hammond and Ms. Anne Chapman
Osborn Maledon, P.A.
2929 North Central Avenue
21st Floor
Phoenix, Arizona 85012

P R O C E E D I N G S

THE COURT: Good morning. Please be seated.

We're on the record in the case of State of Arizona versus Steven Carroll DeMocker. The defendant is present with his attorneys Ms. Chapman, Mr. Sears, and Mr. Hammond. Mr. Paupore and Mr. Butner represent the State. And the jury has returned.

Ladies and gentlemen, I want to take up briefly a couple of general matters before we start.

I remember from working in this courtroom, practicing in this courtroom over the years that sometimes certain times of the year in the afternoon, the sun comes through the windows there on the west side and really creates a very distracting glare. What we're going to do is close these blinds in the afternoon. That will help the people trying to use computers and I think it won't be as distracting to people seated looking toward me and toward the clerk area. So we are going to do that. But we'll leave the blinds open there in the back window. If anybody has any discomfort or any problems with any of this, just please send me a note and we'll address that.

Secondly, we have had a number of witnesses in this case already and there will be more and I wanted to go over a preliminary instruction that Judge Lindberg had read

1 to you concerning witnesses in general and evaluating
2 testimony. There's been at least one jury question in that
3 regard, so I just want to go back and -- and reread that
4 preliminary instruction.

5 In evaluating testimony, you should use the
6 test for accuracy and truthfulness that people use in
7 determining matters in accordance in everyday life, including
8 such factors as the witness' ability to see, hear, or know
9 the things the witness testified to, the quality of the
10 witness' memory, the witness' manner while testifying,
11 whether the witness has any motive, bias, or prejudice,
12 whether the witness is contradicted by anything the witness
13 said or wrote before trial or by other evidence, and the
14 reasonableness of the witness' testimony when considered in
15 the light of the other evidence. Consider all of the
16 evidence in light of reason, common sense, and experience.

17 And, Mr. Butner, you're representing the
18 State's case. You may call a witness.

19 MR. BUTNER: Judge, Mr. Paupore is picking up
20 today.

21 THE COURT: Okay. Mr. Paupore.

22 MR. PAUPORE: Good morning, your Honor. The
23 State would call Erin Daniel.

24 THE COURT: Okay. Please raise your right
25 hand and be sworn.

1 ERIN DANIEL,
2 called as a witness herein, having been first duly sworn, was
3 examined and testified as follows:
4

5 THE COURT: Please be seated there at the
6 witness stand.

7 Would you please begin by stating and spelling
8 your full name.

9 THE WITNESS: My name is Erin Daniel.
10 E-R-I-N A -- or excuse me -- D-A-N-I-E-L.

11 THE COURT: Thank you.

12 Mr. Paupore.

13 MR. PAUPORE: Thank you, your Honor.
14

15 D I R E C T E X A M I N A T I O N

16 BY MR. PAUPORE:

17 Q. Please tell us what your occupation is.

18 A. I'm a criminalist with the Arizona Department of
19 Public Safety Northern Regional Crime Lab in Flagstaff.

20 Q. And what are your duties in that occupation, in
21 your occupation?

22 A. A criminalist is a person -- a scientist that
23 examines evidence, prepares a report, and can talk about
24 those findings in a court of law. I mostly work in the
25 fingerprint unit at the lab.

1 Q. Tell us a little bit about your education, Erin.

2 A. I have a bachelor of science in chemistry from the
3 University of Portland and a master of science in forensic
4 science from Marshall University.

5 Q. How long have you been employed by DPS?

6 A. I've been there over five years.

7 Q. And in that five years, did you start at a
8 different level than you are at right now?

9 A. I started as an associate criminalist, and I've now
10 moved up to a criminalist two.

11 Q. And in the hierarchy, how high can you go as a
12 criminalist in the DPS crime lab?

13 A. You can go up to a criminalist four.

14 Q. As an associate, what were you doing?

15 A. I -- that's when I started my training in
16 fingerprints, so to do that, I worked with experienced latent
17 print examiners for over a year before I was allowed to do
18 casework in fingerprints.

19 Q. Is there competency testing that the DPS does with
20 occupation such as yours?

21 A. Yes, there is. Before you're allowed to do
22 casework, we have to pass a competency test and then we're
23 also proficiency tested every year to make sure that we're
24 still doing things correctly.

25 Q. And you've been there for five years?

1 A. Yes, I have.

2 Q. Can I assume that you've passed the tests every
3 year for the last five years?

4 A. Yes, I have.

5 Q. What about any specialized training that you've
6 received?

7 A. I've been to numerous outside workshops and
8 trainings put on by different agencies, including a crime
9 scene photography class.

10 Q. Tell me a little bit about the crime scene
11 photography class.

12 A. I think it was a two-day class that we went out to
13 an area where we could take pictures and we had part of that
14 class in the dark so we could take pictures in the dark and
15 practice all aspects of crime scene photography.

16 Q. And when did you take that crime photography class?

17 A. I don't know the exact date. I would have to look.

18 Q. Was it a couple years ago or was it --

19 A. It was in the last three years.

20 Q. It was within the last three years.

21 And so have you used your skills learned at
22 the crime photography class since then?

23 A. Yes, I have. I've been to numerous crime scenes
24 and also in the laboratory, we use a lot of photography to
25 capture fingerprints so almost every day that I work in

1 fingerprints, I am taking pictures.

2 Q. On crime scene pictures, is there some technique
3 you use like -- well, let's talk about the DeMocker crime
4 scene, because you were assigned to go out to the crime
5 scene?

6 A. Yes, I was.

7 Q. And what date was that on?

8 A. That was July 3rd, 2008.

9 Q. Now, what time did you get there?

10 A. About 9:00 a.m.

11 Q. So it's light out?

12 A. Yes.

13 Q. And what was your assignment when you were directed
14 to go to the -- this is an address in Williamson Valley on
15 Bridle Path Road?

16 A. Yes, it is.

17 Q. Do you remember what the address was?

18 A. I don't.

19 Q. Okay. You arrived there at 9:00 p.m.?

20 A. 9:00 a.m.

21 Q. 9:00 a.m. Excuse me. What did you do when you
22 arrived?

23 A. I believe when we first got there, we got a
24 briefing from one of the detectives on the scene as to what
25 had happened and what was going on and what they needed our

1 help with.

2 Q. And what was your understanding of your
3 responsibilities on that day?

4 A. They wanted assistance for me in the fingerprint
5 area so they wanted me to look at the -- the scene and
6 anything that I thought would be good for fingerprint
7 analysis and I also assisted with the crime scene
8 photography, including blood spatter photography.

9 Q. Is there any special techniques in the photography
10 that you employed that day that you learned in your training
11 as a crime scene photographer?

12 A. Yes. I can't think of something specific, but in
13 general, just all of that crime scene photography you have to
14 take into account with using a flash or a side lighting, just
15 different ways you have to position your camera to capture
16 what you want to capture.

17 Q. And did you employ those techniques that you
18 learned when taking the crime scene photographs at the Bridle
19 Path residence?

20 A. Yes, I did.

21 Q. You indicated somebody from YCSO wanted you to look
22 for certain fingerprints?

23 A. Right. We were there to assist them so in working
24 with them to see what -- what we should look at for
25 fingerprints.

1 Q. Were you taking your direction from the detectives
2 on the scene, or how did that work?

3 A. We learned from the detectives on the scene what
4 the scene was about, what was going on, what they needed help
5 with. As far as collection for individual places that I
6 looked for fingerprints, that was determined by me.

7 Q. So that was -- where you looked for fingerprints
8 was based upon your training and experience?

9 A. Yes, it was.

10 Q. And are there certain areas that you looked at in
11 this particular scene that you might find a fingerprint you
12 thought?

13 A. Yes, I did.

14 Q. And what areas were those are we talking about?

15 A. At the scene I looked at a door handle in -- in the
16 office room, also the bookshelf that had -- that was tipped
17 over as well as a ladder that was in that room. Those items
18 are items that can't be taken to the lab where I could do
19 further analysis so I wanted to process those at the crime
20 scene.

21 Q. And the door handle was affixed to the door yet?

22 A. Correct.

23 Q. And the bookshelves, can you describe the
24 bookshelves?

25 A. They were large bookshelves taller than I was, and

1 they were tipped over in the room, one of them was.

2 Q. Too large to transport back to the lab?

3 A. Yes.

4 Q. And you took photographs of all the items that
5 we've just mentioned?

6 A. Yes, I did.

7 Q. And did you put those photographs on a -- on a CD?

8 A. Yes, I did. All of the photographs I took on that
9 day I put on a CD.

10 Q. How many photographs did you take?

11 A. I think almost two -- or 300 photographs.

12 Q. And tell the jury how the photographs evolved. I
13 mean, is there a place that you started at the crime scene
14 and then walked around or walked in? How did you go about
15 taking almost 300 photographs?

16 A. We usually start with outside of the scene. Since
17 the scene was in the house, we started outside, just kind of
18 get the whole seen of the house and the area surrounding it,
19 the driveway, the mailbox areas like that, around most of the
20 house. And then I went inside the house and photographed the
21 rooms besides the office and then finally I photographed more
22 carefully the office where the scene had taken place.

23 Q. So I understand your testimony, you kind of worked
24 from the outside and you worked your way in and you then
25 focus your photography -- your crime scene photography on

1 what's been known as the office?

2 A. Yes, that's correct.

3 Q. Is that where Carol Kennedy was -- was found?

4 A. Yes, it was.

5 Q. Was -- was Carol Kennedy's body still in the office
6 when you were there?

7 A. Yes, it was. The first time I took photographs in
8 that room, her body was still there. When I took my more
9 close-up photos of the blood spatter, her body had been
10 removed.

11 Q. Were you asked by YCSO -- someone from YCSO to take
12 blood spatter photographs?

13 A. I don't remember specifically, but I believe I was.
14 Otherwise, I wouldn't have needed to do that.

15 Q. Is there a special technique that you use in taking
16 a photograph of blood spatter?

17 A. Yes, there is. It involves being right in line
18 with the blood spatter so you have to have the camera at the
19 level and it also has to be straight on. You also have to
20 use an L-shaped ruler that has a circle on it so that someone
21 analyzing these photographs can determine if I was, in fact,
22 parallel with that blood spatter.

23 Q. So you take great caution to make sure your -- your
24 lens of your camera is parallel to the object that you are
25 taking a picture of?

1 A. Right. I need to be at the same level instead of
2 looking down at something or up at something. I need to take
3 that picture straight on to what I'm trying to capture.

4 Q. So if something's kind of low to the floor, where
5 do you go?

6 A. I had to go low to the floor.

7 Q. Okay. Keeping in mind always you want to have that
8 lens parallel with the object that you're trying to take a
9 picture of?

10 A. Right, as much as I can. And that's why we have
11 that circle on the ruler that someone looking at it later
12 would be able to tell if I wasn't exactly straight on with
13 that item.

14 Q. Okay. So the circle on the -- on the scale is --
15 is designed to -- for someone else to look at to see how well
16 you orientated your shot?

17 A. Right. Someone that is trained in blood spatter
18 analysis, which I am not.

19 Q. You're just taking crime scene photography?

20 A. Yes.

21 Q. Did you have any help when you were taking these
22 photographs?

23 A. Yes, I did. Another analyst from the lab was there
24 with me, and she helped hold the ruler in many of the
25 photographs that I took.

1 Q. And so you just concentrated on holding the camera
2 and your assistant -- what was your assistant's name?

3 A. Kortney Snider.

4 Q. And so the photographs that have hands in them are
5 not yours?

6 A. Correct.

7 Q. And you mentioned something about lighting. What
8 did you do about the lighting aspect of the crime scene
9 photography that you had to be conscious of?

10 A. In this particular scene, the lighting wasn't too
11 difficult because it was during the day, but I have two
12 different flashes on my camera that I can use. One I can
13 kind of take off my camera and put it at an angle. So if I
14 have a reflective surface, then I can't take that picture
15 straight on with the flash or I'll have a reflection. So
16 that would be a time when I would have to take the flash off
17 and put it at an angle.

18 Q. And you put all of these photographs that we're
19 talking about onto a CD?

20 A. Yes, I did.

21 Q. Okay. We'll talk about a few more things because
22 that particular CD has not been marked yet.

23 And, Phil, if I could ask you to fire up our
24 ELMO.

25 What -- while Mr. King is doing that, what

1 kind of training besides -- is it on -- on-the-job training
2 for fingerprint examination and analysis?

3 A. Yes. Most of the training that I did was like I
4 said over a year long with two experienced fingerprint
5 examiners. Although I also attended outside trainings.

6 Q. What's the key to taking -- or to being able to
7 read a good fingerprint?

8 A. It takes a lot of hands-on experience. That's why
9 the training program can take over a year. We have to learn
10 to process items for fingerprints, use different things to
11 develop those fingerprints, and then we have to train a lot
12 more on comparing those fingerprints and being able to
13 determine if we can make an identification or not.

14 Q. Okay. Let's break this down a little bit. So
15 first you have to do is learn how to take a print?

16 A. Right. First we have to learn how to process
17 different items of evidence to get the best results we can
18 for fingerprints.

19 Q. And I take it some surfaces are friendly or
20 receptive to fingerprint analysis and other surfaces are not?

21 A. That's correct. The -- the best surface for
22 fingerprints is going to be something smooth, something like
23 glass, which I'm sure you've all noticed holding a glass of
24 water you can see your fingerprints sometimes on that. That
25 surfaces or textured surfaces, something like this wood right

1 here, that would be textured and I would have a harder time
2 finding a fingerprint.

3 Q. And why is that?

4 A. Because of the texture, your finger is like a
5 stamp. When I touch this bumpy surface, then the stamp isn't
6 left evenly and it's hard for me to detect and it's also hard
7 for me to get a useable fingerprint that I can compare to
8 someone.

9 Q. And so the smoother the surface -- well, glass is
10 smooth. But let's take -- let's talk about like a doorknob
11 because you did look at a doorknob in this case.

12 A. I did. Doorknobs are difficult because the surface
13 is small so there's not much surface area there for a person
14 to handle and it's also curved so a person would probably
15 also be moving when they're turning a doorknob. So all those
16 factors kind of go into the fact that I've actually never
17 found a useable fingerprint on a doorknob, a round-type
18 doorknob.

19 Q. You took my next question. So you've never been
20 able to lift a readable print from a doorknob?

21 A. That's correct.

22 Q. What do you usually find when you look at a
23 doorknob looking for prints?

24 A. There can be smudges on there or partial what we
25 call ridge detail is just little pieces of fingerprint that

1 could be on there, but I've never had anything that I can
2 actually compare to anyone.

3 Q. I guess you got to keep on trying.

4 A. I will.

5 Q. Okay. So -- so doorknobs are particularly
6 different -- difficult. Textured surfaces are difficult to
7 get a readable print. A glass is more easily able -- you're
8 able to get a print on. Like a can of soda or a can of beer,
9 how is that -- is that readily available for printing?

10 A. Yes, those are pretty good surfaces. They're
11 pretty smooth. And when someone handles something they're
12 pretty stationary when you pick up a glass to drink out of
13 it.

14 Q. Now, besides your crime scene photography, and we
15 will get to the photographs in a little while, you were
16 looking for areas where you might be able to find a
17 fingerprint and tell us what you did in that regard?

18 A. At the crime scene? I looked at, besides the
19 doorknob, the bookshelf that I mentioned and also the ladder
20 that was in the room.

21 Q. So -- and tell us why you looked at those
22 particular items. You said the ladder that was in the room,
23 the office that we're talking about, and the bookshelves.
24 Why -- why were they of interest to you?

25 A. One reason is the -- the wood they were made out of

1 was pretty smooth so it could potentially be a good surface
2 for me to find fingerprints and also because the items were
3 so large they couldn't be easily transported to the lab. The
4 third reason was it looked like those items had been moved so
5 someone would have had to have touched them in some sort of
6 fashion.

7 Q. So -- so they appeared that somebody had to put a
8 hand on it and the surface appeared readily a good surface to
9 possibly get a print and that's why you looked for prints on
10 there?

11 A. Yes.

12 Q. And how do you look for prints?

13 A. I start with usually a flash light and get close to
14 the item and see if I can find any ridge detail. On the
15 ladder and the bookshelf, I used a combination of black
16 powder and magna powder, which is like you see on TV on CSI,
17 the little brush. I used that on those items.

18 The wood on the bookshelf and the ladder were
19 light colored and my powder is black so I was able to see if
20 there was any ridge detail or any kind of marks on those two
21 items.

22 Q. What was the name of that powder again?

23 A. It's a combination of black powder and magna
24 powder, which is a type of powder that's magnetic.

25 Q. And you call it magna power?

1 A. Powder.

2 Q. Powder. And it's magnetic?

3 A. Correct.

4 Q. Why is it magnetic?

5 A. There's magnetic pieces mixed in with the powder,
6 and it -- it helps stick to some surfaces.

7 Q. What's the black powder? Is that the kind you put
8 in -- for bullets, is it, guns?

9 A. No. This is fingerprint powder. It's really messy
10 black fine powder that we use on many items.

11 Q. So it's real, real fine? Is it -- are the two
12 powders like mixed together and you just sprinkle it out of a
13 salt shaker or how do you do it?

14 A. They are mixed together. That's what I like to
15 use. And I use a magnetic brush, which is just a piece of
16 metal that's magnetic that the metal filings stick to and
17 then I can -- I can brush it against a surface I'm looking
18 at.

19 Q. You start by looking for the -- and it's called a
20 latent print?

21 A. Right. A latent print is just one that's hidden or
22 invisible and it requires a development by me to -- to be
23 able to see that fingerprint.

24 Q. So you look with a flashlight and you were looking
25 for ridge detail?

1 A. Right. I start with a flashlight to see if I can
2 see anything first, and then I can move on to the black
3 powder.

4 Q. Okay. I'm going -- I got to circle back to your
5 photographs because the disc is ready. And I'm going to
6 ask --

7 MR. PAUPORE: May I approach the witness, your
8 Honor?

9 THE COURT: Yes.

10 BY MR. PAUPORE:

11 Q. Erin, I'm going to hand you an envelope -- if I put
12 my glasses on, I can see what I'm looking at -- an envelope
13 that's been marked for identification purposes as
14 Exhibit 3200, 3200. I'm going to ask you if you recognize
15 what's contained in Exhibit 3200?

16 A. Yes, I do. It's a CD, and it has my initials on
17 it.

18 Q. That's your handwriting?

19 A. Yes, it is.

20 Q. And what again is that CD?

21 A. The CD should contain all the photographs that I
22 took at the crime scene.

23 Q. And you have reviewed that CD?

24 A. Not this particular CD, but I reviewed a CD that I
25 contained at our lab.

1 Q. And this CD would contain all the photographs that
2 we've been talking about earlier?

3 A. Yes, the crime scene photographs.

4 Q. The crime scene photographs. And there are some
5 300 in number on here?

6 A. Right, almost 300 photographs.

7 MR. PAUPORE: Okay. The State would offer
8 3200 into evidence.

9 MR. SEARS: Lack of foundation, your Honor.
10 There's nearly 300 images, each one of which has its own
11 separate foundation requirement.

12 THE COURT: Sustained.

13 MR. PAUPORE: Phil, is that ready to go?

14 THE BAILIFF: Yes.

15 BY MR. PAUPORE:

16 Q. Erin, can you -- can you see that diagram from
17 where you're sitting?

18 A. I can't read the letters, but I can see the
19 outline.

20 Q. Okay. I won't ask you about the letters. I can't
21 read them either.

22 Do you recognize -- and this is -- for the
23 record is evidence item number 631, which has been admitted
24 into evidence. And what -- what can you tell us that you
25 recognize of this exhibit?

1 A. It looks like a drawing of the house where I
2 attended the crime scene.

3 Q. On Bridle Path?

4 A. Yes.

5 Q. Are you having difficulty in looking at that from
6 your angle?

7 A. A little bit, but I think I got it now.

8 Q. You think you got it?

9 A. Yeah.

10 Q. And you recognize that as being the floor plan?

11 A. I didn't extensively look at all of the rooms so I
12 can't say much about the other rooms of the house.

13 Q. Do you recognize the area that we were calling the
14 office from where you're sitting?

15 A. Yes, I can.

16 Q. Is that a laser? It is. Would you point it out
17 for the jury? That little room off to the upper right-hand
18 corner, the image -- the diagram is facing north so you're on
19 the -- the northeast side of that structure; is that correct?

20 A. I'm not very good with directions. Sorry.

21 Q. Okay. That's fine.

22 MR. PAUPORE: Your Honor, I'm going to ask to
23 approach the witness again and have her identify some
24 photographs.

25 THE COURT: Okay.

1 BY MR. PAUPORE:

2 Q. Erin, I'm going to show you what's been marked for
3 identification purposes Exhibits Number 3032, 3033, 3034,
4 3035, 3036, 3037, 3039. Did I say 39? 3040, 3041, 3042,
5 which are 10 -- 10 photographs. I have just shown these
6 photographs to counsel and now I'm going to show them to you
7 and ask you if you can identify the photographs. I'm going
8 to hand you 10 of them and testifying from what's in them,
9 I'm asking you if you recognize them as being photographs
10 that you've taken?

11 A. I can't say that these are the exact photographs
12 that I took, but in looking at them and reviewing the
13 photographs yesterday, I recognize all these as areas that I
14 had taken photographs that look like that.

15 Q. And when reviewing the photographs, you were
16 reviewing the copy of the photographs that you had that was
17 on Exhibit labeled 3200, the CD?

18 A. Correct.

19 Q. Those photographs, do they fairly and accurately
20 show what is in each photograph when you took the photographs
21 back on July 3rd, 2008?

22 A. Yes, they do.

23 Q. And those are the actual photographs that you took;
24 is that right, that you took?

25 A. I took photographs like this.

1 Q. Those photographs? You hesitate.

2 A. I can't -- I didn't print those out so I don't
3 know.

4 Q. You'd have to what, look at the actual images on
5 the CD?

6 A. I would have to look at them at a -- which is the
7 data that says when those pictures were taken.

8 Q. Do you have something with you that would refresh
9 your recollection or help you with the data that you're
10 talking about?

11 A. It would have to be done on a computer in a program
12 that the metadata could be read. I mean, I recognize all
13 these photographs.

14 Q. How do you recognize them?

15 A. In looking at the photographs that I looked at
16 yesterday, they correspond to photographs that I had taken.

17 Q. So you recognize the photographs?

18 A. Yes.

19 Q. And are those the photographs that you took of the
20 crime scene --

21 A. Yes.

22 Q. -- at Bridle Path?

23 A. (No audible response.)

24 Q. Is that a yes?

25 A. Yes.

1 MR. PAUPORE: The State would offer Exhibits
2 Number 3041 through -- excuse me -- 3032 through 3042.

3 MR. SEARS: Voir dire, your Honor?

4 THE COURT: Yes.

5

6 V O I R D I R E E X A M I N A T I O N

7 BY MR. SEARS:

8 Q. Ms. Daniel, if I'm understanding you right, you're
9 saying that you can't say as you sit here today whether you
10 actually took any of these 10 photographs in front of you; is
11 that right?

12 A. I -- since I did not print those out, I cannot say
13 it's not someone else stood in the exact place that I did and
14 took these same exact pictures.

15 Q. Okay. Each one of these photographs is of a
16 different location or item; correct?

17 A. They're different locations.

18 Q. Okay. You've not told us yet what is depicted in
19 each photo or where these photos were taken? Let's start
20 with where were these photos taken?

21 A. They were all taken at the residence on Bridle Path
22 on July 3rd, 2008.

23 Q. Okay. And you said what would -- would answer the
24 question of whether you took these photos and if you were to
25 look at them on a computer and look for what is called the

1 metadata?

2 A. Correct. That's data contained in the photograph
3 when it's first captured, and the data on the CD here would
4 show when I copied it to the CD.

5 Q. And in Windows Picture Manager, that's described as
6 properties; right? You look under properties of each photo?

7 A. Right. You can see that which would show the CD
8 when the CD was made. I had to look in the program called
9 Photoshop to see when I took the physical photo.

10 Q. When you look in Picture Manager the metadata for
11 every one of the photographs that you took is exactly the
12 same date and time. It's all July 8, 2008 at 9:22 a.m.
13 That's when you created the CD; right?

14 A. Correct.

15 Q. So you'd have to have Photoshop to look at each
16 image to get the date and time, camera, and the other data
17 for each of those photographs; is that right?

18 A. Correct. And that's what I did yesterday at my lab
19 when I reviewed these photographs.

20 Q. But you haven't been asked to do that today with
21 these photos?

22 A. They're a copy of what I looked at.

23 Q. But you can't -- you can't tell us as we sit here
24 with any degree of certainty whether these are your
25 photographs or someone else's similar photographs; correct?

1 A. I recognize all of them, but I did not print them
2 out from my actual images.

3 MR. SEARS: Foundation, your Honor.

4 THE COURT: Can I see the exhibits,
5 Mr. Paupore?

6 Overruled. Exhibits 3032, 33, 34, 35, 36, 37,
7 39, 40, 41, and 42 are admitted.

8 Actually, Mr. Paupore, when you were going
9 through the exhibits, you did not recite 38 and I left that
10 out.

11 MR. PAUPORE: That was an oversight, your
12 Honor. I'll include that right now with further testimony.

13
14 D I R E C T E X A M I N A T I O N (Continued)

15 BY MR. PAUPORE:

16 Q. Would you take a look at a photograph that's been
17 marked as Exhibit 3038. Do you recognize that photograph?

18 A. Yes. My answer would be the same as the previous
19 photographs.

20 Q. Okay. That's a photograph you took, but did not
21 print out?

22 A. Correct.

23 Q. But does that photograph fairly and accurately
24 depict the scene in that room when you took that photograph?

25 A. Yes, it does.

1 MR. PAUPORE: The State would offer 3038 into
2 evidence.

3 THE COURT: Mr. Sears.

4 MR. SEARS: Same objection, your Honor.

5 THE COURT: Overruled. 3038 is also admitted.

6 MR. PAUPORE: Your Honor, may I publish a few
7 of these to the jury?

8 THE COURT: Yes.

9 BY MR. PAUPORE:

10 Q. And I'm going to show you what's been marked and
11 admitted into evidence Exhibit 3032. I'm going to ask you to
12 tell us what this picture represents.

13 A. This picture was taken in the kitchen that shows
14 the kitchen counter, and the magazine in the photo is one
15 that I received later at the lab that I analyzed.

16 Q. This is the magazine that I'm trying to get a
17 better shot of that you're telling us about?

18 A. Yes.

19 Q. What is the magazine called?

20 A. I think it's *body + soul*.

21 Q. Can you see that?

22 A. Yes.

23 Q. So that magazine is something that you later
24 received in the lab and you analyzed?

25 A. Yes, later.

1 Q. How did you analyze it?

2 A. Once I got to the lab and that was sent in, I
3 superglued the magazine, which means that I put the items in
4 a chamber with liquid superglue, heat that up, add some
5 humidity, and then the superglue actually sticks to any
6 fingerprint residue on items. There's also paper in the
7 magazine and under the magazine, I believe, and I used a
8 chemical called ninhydrin on the paper and when I spray that
9 on paper, it reacts with chemicals in fingerprint residue and
10 it turns any fingerprints purple on the paper.

11 Q. So you didn't use that -- that black magna powder
12 to get the prints off -- off of the magazine?

13 A. I don't think so.

14 Q. You used superglue?

15 A. Yes.

16 Q. Regular old superglue that you buy in the store?

17 A. It's pretty much the same thing, except we buy it
18 from a forensic company so it costs a lot more.

19 Q. And through that superglue heating-it-up process,
20 you're able to find out if there's fingerprints on the paper?

21 A. Right. The superglue residue sticks to the
22 fingerprint residue on an item.

23 Q. Okay. And you did that to the magazine and the
24 papers that were contained therein?

25 A. Just the magazine because the magazine is a slick

1 surface, so any fingerprint residue could be on top of that
2 slick surface and then the superglue residue would stick on
3 top of that on the fingerprint residue.

4 Q. Okay. Now, I want to show you what's been marked
5 in a minute into evidence as Exhibit Number 3035. I'm going
6 to ask you if you could tell us what this picture shows?

7 A. That is a doorknob, and I can't tell unless you
8 zoom out whether that was the inside or the outside. And I
9 still can't tell from this angle, but that's the doorknob to
10 the exterior from the office to the outside.

11 Q. Do you see that shiny object off to the right --

12 A. Yes.

13 Q. -- inside? What does that appear to you to be?

14 A. I can't tell from here.

15 Q. Could the witness step down and take a look? Well,
16 let me just show you the photograph. Maybe that might help
17 you.

18 A. Okay. I can't tell what that is.

19 Q. Okay. And do you know which door this was taken
20 from just by this photograph, or do you need more
21 information?

22 A. I don't know for sure. I think it's the one in the
23 office going to the outside exterior. It would be --

24 Q. Could you point it out?

25 A. It would be over there I think.

1 Q. Okay. So that is a photograph of the doorknob from
2 the outside?

3 A. I think so. I don't know if it's the inner
4 doorknob or the outer doorknob though.

5 Q. Okay. And why is that scale -- what's that? Why
6 is that in there?

7 A. There was a red kind of colored smudge on there and
8 that was what I was taking a picture of.

9 Q. Can you see it in this -- can you point it out?

10 A. (Witness indicates.)

11 Q. It only works if you shake it. So that -- can you
12 go a little bit slower. You were going so quickly. I think
13 I see where you were pointing to, but I want to --

14 A. (Witness indicates.)

15 Q. Okay. That area right there --

16 A. Yes.

17 Q. -- was of interest to you?

18 A. And also the serologist Kortney Snider at the
19 scene.

20 Q. Did somebody point that out to you, or did you
21 discover it on your own?

22 A. I don't remember.

23 Q. Let me show you what's been marked as Exhibit 3040.
24 I'm going to ask if you can identify this photograph or
25 what's in this -- or why was this photograph taken?

1 A. When we first got to the scene and got briefed by
2 the detectives, we were told that the victim was on the phone
3 and was cut off and we believe that was the phone that she
4 was on at the time so we -- I made sure to take a photograph
5 of that. That's on the floor in the office, and I also
6 received that item later to analyze for fingerprints.

7 Q. As you sit here right now, do you remember what
8 your fingerprint analysis turned up?

9 A. I didn't get any fingerprints --

10 MR. SEARS: Foundation. I'm sorry.
11 Foundation.

12 THE COURT: Sustained.

13 BY MR. PAUPORE:

14 Q. I show you what's been marked as Exhibit
15 Number 3041.

16 MR. SEARS: Your Honor, could we approach for
17 just a moment, please?

18 THE COURT: Yes.

19 MR. SEARS: Thank you.

20 THE COURT: Yes, you may.

21 (Sidebar discussion off the record.)

22 THE COURT: Thank you, ladies and gentlemen.

23 BY MR. PAUPORE:

24 Q. Erin, let me show you what's been marked as
25 Exhibit 3039. And why was this picture taken, and where was

1 it taken?

2 A. That is also in the office at the residence on
3 Bridle Path. I try and capture the whole room so that's one
4 reason it was taken, but also to show where the ladder was
5 and that was the ladder that I examined at the scene for
6 fingerprints.

7 Q. Okay. I'm going to ask you to look at photographs
8 numbers 3043, 3044, 3045, 3046, 3047, 3048, 3049, 3050, 3051,
9 3052, and 3053. Do you recognize those photographs?

10 A. Yes. It would be my same answer as to the previous
11 photographs. I recognize them as photos I have taken.

12 Q. You took the photographs, but you did not print
13 them off the disc?

14 A. Correct.

15 Q. And you reviewed the disc yesterday of the
16 photographs that you took and those are photographs that you
17 took on July -- July 3rd, 2008?

18 A. Yes.

19 Q. They were taken at Bridle Path?

20 A. Yes.

21 Q. And the photographs that you looked at, did they
22 fairly and accurately depict what is shown in each
23 photograph?

24 A. Yes.

25 MR. PAUPORE: Do you have them, Mr. Sears?

1 MR. SEARS: I do.

2 MR. PAUPORE: The State moves into evidence
3 photographs numbers --

4 MR. SEARS: Question on voir dire, your Honor?

5 THE COURT: Yes. Mr. Paupore is going to
6 recite 3043 through 53 inclusive, I think.

7 MR. PAUPORE: Correct.

8 THE COURT: Okay. Yes, you may.

9 MR. SEARS: Thank you.

10

11 V O I R D I R E E X A M I N A T I O N

12 BY MR. SEARS:

13 Q. Ms. Daniel, can you tell us today the time of day
14 that these pictures 3043 through 3053 were taken, please?

15 A. I cannot.

16 Q. Can you say whether they were taken in the morning
17 or in the afternoon of July 3, 2008?

18 A. If I knew the exact title of the photograph that
19 was on the disc, then I could.

20 Q. You can't do that from what's in front of you?

21 A. Correct. I would have to know the name of the
22 file.

23 Q. If I understand your testimony thus far is you and
24 Kortney Snider arrive on scene about 9:00 in the morning on
25 July 3; is that right?

1 A. Correct.

2 Q. And you were briefed for a while and then you began
3 your work; correct?

4 A. Yes.

5 Q. And were you in the room -- the photographs we've
6 seen thus far for the most part are pictures taken inside of
7 the room where the body was found; correct?

8 A. Correct.

9 Q. There's some taken out in the kitchen area. Did
10 you go to this room, this room being the one that's up there
11 on the screen, first?

12 A. I took photographs of the outside first and then
13 the rest of the house and then this room.

14 Q. Okay. And you said you took some pictures when the
15 body was in place and some pictures after the body had been
16 removed; is that right?

17 A. Yes.

18 Q. And obviously from the photograph that's up there,
19 you can't tell whether the body is in place or not?

20 A. Correct.

21 Q. And you were on scene for a number of hours,
22 weren't you?

23 A. Yes, I was until almost 6:00 p.m. that day.

24 Q. And the lighting may have changed in the room from
25 10:00 o'clock in the morning until nearly 6:00 p.m.; correct?

1 A. Yes.

2 Q. So all you can say is that these photographs were
3 taken by someone on July 3, 2008 when you were there;
4 correct?

5 A. In -- in pretty much the exact location that I also
6 took photographs.

7 Q. You can't tell us in what part of the day between
8 9:00 a.m. and nearly 6:00 p.m. those photographs were taken?

9 A. If I had -- I had wrote stuff down when I looked at
10 the CD yesterday.

11 Q. Do you have those notes with you?

12 A. Yes.

13 MR. SEARS: I have no objection, your Honor.
14 I think I know what she's saying.

15 THE COURT: Okay. Then Exhibits 3043 through
16 3053 are admitted.

17 MR. PAUPORE: Your Honor, may I approach the
18 witness?

19 THE COURT: Yes, you may.

20

21 D I R E C T E X A M I N A T I O N (Continued)

22 BY MR. PAUPORE:

23 Q. On the back of these exhibits, maybe this will help
24 clear things up, there's something written at the top. Do
25 you recognize -- do you see that?

1 A. Yes.

2 Q. Does that help you at all in your -- as to when
3 these photographs were taken?

4 A. Yes, it does. I took -- when I saved it to the
5 disc, they call -- I have two sets of images that are
6 numbered like this so I would have to know which set it was
7 to conclude as to which batch it was either in the morning I
8 think it was when the body was there or in the afternoon when
9 the body was removed.

10 Q. Okay. But those numbers will with your -- with
11 your notes be able to orientate you to when during the day
12 you took those photographs because of the numbers that are on
13 the back of them?

14 A. Yes.

15 Q. And -- and so the times and dates can't be verified
16 by yourself?

17 A. I have a -- I have a note page that shows the range
18 when I took each set of photographs.

19 Q. I'm going to put up on the ELMO it's been marked
20 and admitted into evidence as Exhibits 3053. It's the back
21 of 3053. That's just a random number -- that's just a random
22 exhibit I picked up, but that information on there tells
23 me -- it means what?

24 A. It would be the file name. It was called DSC
25 underscore and then a number. When I was taking pictures at

1 the scene, they were saved to a flash card and the camera
2 assigns the number at that time.

3 Q. And how many flash cards did you use on this
4 particular crime scene?

5 A. I don't remember.

6 Q. But this -- but there's only one -- there's only
7 one photograph that's labeled 0071 image?

8 A. No.

9 Q. Because it depends on what folder it came from?

10 A. Correct.

11 Q. And it was three folders?

12 A. Correct.

13 Q. But this is -- that identification is something
14 that your camera automatically puts on the photograph?

15 A. Right. It numbers the photographs that I take.

16 Q. This particular photograph, the other side of the
17 photograph 3053, can you tell us what -- what this picture is
18 of?

19 A. That shows the book -- the bookshelf that was
20 tipped over in the office room at the residence.

21 Q. Is that how it looked on the day that you took this
22 photograph?

23 A. Yes, it did.

24 Q. Let me ask you to look at Exhibit 3043. And do you
25 recognize -- why did you take this photograph?

1 A. Once again, I was attempting to capture the whole
2 room and especially any locations where there was blood and
3 this is in the same room in the office on the desk where the
4 computer is.

5 Q. Let me show you what's been marked 3047. And what
6 is that?

7 A. That is the ladder in the room.

8 Q. What were you trying to show in this photograph?

9 A. I'm not sure.

10 Q. Do you remember?

11 A. Just trying to capture the whole scene so I
12 overtake photographs to make sure that I cover everything.

13 Q. You've got 300 of them so I believe you.

14 You normally take -- like in a scene like
15 this, would you take -- is that a number that you would
16 normally take, two or 300?

17 A. Yeah. In a homicide scene like this, I would take
18 many pictures, especially if I was taking blood spatter
19 photographs.

20 Q. And as I understand your testimony, you're just
21 trying to capture every view in the room to preserve what
22 that room looked like when you were there taking pictures?

23 A. Exactly.

24 Q. And some of the pictures have blood in it, but some
25 of them are just pictures to show what it looked like?

1 A. Exactly. I'm not sure what could be important at a
2 later time so I need to make sure that when I'm there I
3 capture everything that I can.

4 Q. And is that part of what you're trained to do in
5 your -- in the classes and the crime scenes that you visited
6 in the past?

7 A. Yes, it is.

8 MR. PAUPORE: I had a panic moment here for a
9 minute if I misplace my glasses.

10 BY MR. PAUPORE:

11 Q. Next, Erin, I want to show you exhibits marked
12 3054 -- I'm just going to give the last numbers. They all
13 start with 3055, 56, 57, 58, 59, 60, 61, 62, 63, and 64.
14 Same round of questions coming at you. Take a look at those
15 items and tell us if you can -- if you recognize them as
16 pictures that you took on Bridle Path on July 3rd, 2008.

17 A. Yes, I do recognize these photos.

18 Q. And do the photographs fairly and accurately depict
19 what you were taking a picture of when you shot that picture
20 on July 8th, 2008?

21 A. On July 3rd, yes.

22 Q. July 3rd. Thank you for the correction. Anytime
23 I do that, please correct me because I don't want to get it
24 wrong.

25 Do they fairly and accurately depict what you

1 were taking a picture of on July 3rd, 2008?

2 A. Yes.

3 MR. PAUPORE: The State offers aforementioned
4 numbers into evidence.

5 MR. SEARS: Subject to same objection, your
6 Honor.

7 THE COURT: Overruled. 3054 through 3064
8 inclusive are admitted.

9 BY MR. PAUPORE:

10 Q. Let me show you, Erin, what's marked as 3054 and
11 ask if you can tell us the purpose of taking this photograph?

12 A. Once again, that shows the tipped-over bookshelf
13 that was in the office.

14 Q. Another general view?

15 A. Correct.

16 Q. Next I'm going to show you exhibits which have been
17 marked as 3065, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75.

18 Please take a look at them and tell us if you recognize
19 what's in those photographs.

20 A. Yes, I can recognize these photographs.

21 Q. Taken by you on July 3rd, 2008?

22 A. Yes.

23 Q. At Bridle Path?

24 A. Yes.

25 Q. And do they fairly and accurately represent the

1 scene that's in each photograph when you took that photograph
2 on that day?

3 A. Yes, they do.

4 MR. PAUPORE: The State offers to move into
5 evidence the Exhibit -- the Exhibits aforementioned 3065
6 through 3075.

7 THE COURT: Mr. Sears? Mr. Paupore, could I
8 see the exhibits also?

9 MR. PAUPORE: Oh, yes. Would your Honor like
10 to see each of the exhibits before I --

11 THE COURT: Yes.

12 MR. PAUPORE: I would be happy to do that,
13 your Honor.

14 THE COURT: Mr. Sears?

15 MR. SEARS: Your Honor, these photographs,
16 there are seven photographs of one area of the wall and three
17 of the plastic tubs. They are duplicative and cumulative. I
18 have not heard anything from the witness that would
19 distinguish any of these evident photos of the wall area one
20 from the other and the same with those of the tubs.

21 THE COURT: Mr. Paupore?

22 MR. PAUPORE: Your Honor, they are -- some of
23 them are of the same area, but they're not the same
24 photographs. They are a little bit different in each
25 respect, and they are designed to show the exact condition of

1 what the crime scene photographer was taking at the time.
2 They're not cumulative.

3 THE COURT: Overruled. I will admit 3065
4 through 3075 inclusive.

5 MR. PAUPORE: Thank you, your Honor.

6 BY MR. PAUPORE:

7 Q. Erin, again on the back of these photographs that
8 we were just talking about, and I show you the back of 3065,
9 there's that little -- that writing up at the top that we
10 talked about earlier.

11 A. Yes.

12 Q. And that would able you to check with your log as
13 to when exactly you took this photograph?

14 A. Correct. And since these are the close-up of the
15 blood spatter and they show Kortney's hands on the sides, I
16 can tell that these were taken later in the day.

17 MR. SEARS: I'm sorry, I couldn't hear the
18 last part of the witness' answer, your Honor.

19 THE COURT: Could you please repeat your
20 answer.

21 THE WITNESS: I show Kortney's hands in some
22 of these. I could tell these are the close-ups of the blood
23 spatter I had taken, and I can tell that they were from later
24 in the day.

25 MR. SEARS: Thank you, your Honor.

1 BY MR. PAUPORE:

2 Q. Let me show you Exhibit 3068, something that you
3 were just talking about. Can you see that from where you're
4 sitting okay?

5 A. Yes.

6 Q. So the hands off to the -- off to the right are
7 whose hands?

8 A. Those belong to Kortney Snider, who was the other
9 analyst from the lab that was with me that day.

10 Q. And this is that scale that you had told us about
11 earlier?

12 A. Correct. There's circles on it.

13 Q. Go ahead and point it out, the circles.

14 A. This one here. One there. There and there.

15 Q. And what's the importance of the circles on your
16 scale?

17 A. Along with it being an L-shaped ruler, someone
18 trained in blood spatter analysis can use that information to
19 analyze the blood spatter and be able to tell exactly where I
20 was when I took the picture.

21 Q. And does that -- the circle with the cross in it
22 like a bull's-eye, is that -- does that mean anything?

23 A. Right. If I was standing up above, then the circle
24 would look different. It wouldn't be an exact circle so they
25 can use that information to determine if I was, in fact,

1 straight on to the item.

2 Q. In other words, if you were taking a picture from
3 the proper angle?

4 A. Correct.

5 Q. And -- okay. Next, let me ask you to look at
6 Exhibits --

7 THE COURT: Mr. Paupore, do you think this
8 might be a good time for a recess?

9 MR. PAUPORE: Anytime I believe is a good time
10 for a break, I agree with it.

11 THE COURT: We will go ahead and take the
12 morning recess. Ladies and gentlemen, please remember the
13 admonition. Please be back in the jury room at 11:00
14 o'clock, a little over 15 minutes.

15 And, Ms. Daniel, the rule of exclusion of
16 witnesses has been invoked in this case. You know what that
17 means; correct?

18 THE WITNESS: Yes.

19 THE COURT: Okay. And I am going to ask the
20 parties to remain just a minute. We are excused for the
21 morning recess. Thank you.

22 Ms. Daniel, you may exit the courtroom as
23 well. Thank you.

24 ----oOo----

25 (Proceedings were held and reported, but are

1 not contained herein.)

2 ----oOo----

3 THE COURT: Okay. We'll be in recess for
4 about 15 minutes. Thank you.

5 (Recess from 10:46 a.m. to 11:06 a.m.)

6 THE COURT: Thank you. Please be seated.

7 The record will show the presence of the
8 defendant, all of the attorneys, and the jury. And the
9 witness -- the witness is now returning to the witness stand
10 and, of course, she has been sworn for all testimony in this
11 case.

12 Mr. Paupore.

13 MR. PAUPORE: Thank you, your Honor.

14 BY MR. PAUPORE:

15 Q. The photographs that you've taken, did you take
16 more than one photograph of the same object or scene you're
17 trying to capture?

18 A. I probably didn't take an exact photograph that was
19 the same. I try and capture the whole room and then when I
20 was taking pictures of the blood spatter, I needed to capture
21 all of the blood spatter that I could see and also be able to
22 tell where that was in relation to other blood spatter, other
23 items in the room and where exactly in the room that was.

24 Q. So your photographs, although some of them are --
25 they're not photographs of the same -- you don't take two

1 photographs of the same -- of the same shot that you're
2 taking?

3 A. Right.

4 Q. And so each photograph that you're taking is taken
5 from a different vantage point?

6 A. Right. Like I was talking about with the blood
7 spatter, I had to be right on and level with each blood
8 spatter, so if there was something on a wall, I would have to
9 move down and be level with every piece of blood that was on
10 that item.

11 Q. So if you got, for example, a wall that's about
12 six feet in length and it has blood spatter on it, how would
13 you photograph that entire wall?

14 A. I would have to move down and capture every piece
15 of blood spatter as straight on as I could and also take a
16 shot further back so I could tell where that was in relation
17 to the room.

18 Q. So you would take a wide shot of the area you're
19 trying to -- to photograph and then you would move in and
20 take each section?

21 A. Right, or I might take that wide shot after I do
22 the close-ups.

23 Q. Yeah. The sequence might be different, but you
24 like to get in -- in your grouping, you would want to have a
25 wide enough shot so a viewer has perspective as to what

1 object you're shooting? Is that what you're telling us?

2 A. Yes, exactly.

3 Q. And then when you do see blood spatter, you
4 photograph it in a fashion so that you capture all of it?

5 A. Correct.

6 Q. And each photograph is different?

7 A. Yes.

8 Q. I'm going to show you what's been marked Exhibits
9 3076, 77, 78, 79, 80, one, two, three, four, five, and six.
10 I ask you take a look at the photographs and tell us if those
11 are the photographs that you took on July 3rd of 2008.

12 A. Yes, I do. And some of these are very similar
13 where I had an overexposure on the flash and I would retake
14 the very similar picture.

15 Q. So some of them are -- if you can point out where
16 you had to retake it in order not to have to put the same
17 photograph into evidence, I would appreciate it.

18 A. These two. And those two.

19 Q. Which of these photographs did you not want -- you
20 want to use this one?

21 A. Yep.

22 Q. Not these two? Okay.

23 MR. PAUPORE: Okay. The State would withdraw
24 the admission of Exhibits 3081 and 3082.

25 THE COURT: The State is not offering 3081 and

1 82.

2 MR. PAUPORE: Correct.

3 THE COURT: Okay.

4 BY MR. PAUPORE:

5 Q. Okay. Do the photographs that you just went
6 through, Erin, fairly and accurately depict the object that
7 you were trying to capture when you made those photographs on
8 July 3rd, 2008?

9 A. Yes, they do.

10 MR. PAUPORE: The State would move into
11 evidence these photographs.

12 THE COURT: If I could see them. Mr. Sears?

13 MR. SEARS: So the numbers now are 3076
14 through 3080 and then 383 through 386?

15 THE COURT: Yes.

16 MR. SEARS: Thank you. No objection.

17 THE COURT: 3076, 77, 78, 79, 80, 83, 84, 85,
18 and 3086 are admitted.

19 BY MR. PAUPORE:

20 Q. Erin, I'm directing your attention to 3083, and
21 please tell us what you were trying to capture in this
22 photograph.

23 A. This shows some of the blood spatter on the wall
24 near the light switch.

25 Q. Towards the top of that ruler? Do you have your

1 pointer?

2 A. There's -- the dark spots are blood spatter.

3 Q. Okay. And same question for 3084.

4 A. This is on the wall near the desk down to the floor
5 and there's also blood spatter.

6 Q. Can you point out the desk in this photograph?

7 A. (Witness indicates.)

8 Q. Thank you. I ask you to look at Exhibits 3087, 88,
9 89, 90, one, two, three, four, five, and six. And as you're
10 going through those, Erin, if you see some that are -- that
11 show the same photograph, please pull them out. Do you
12 recognize those photographs?

13 A. Excuse me?

14 Q. Do you recognize the photographs?

15 A. Yes, I do.

16 Q. Are those the photographs that you took on
17 July 3rd, 2008?

18 A. Yes, they are.

19 Q. And do the photographs fairly and accurately depict
20 the object that you were taking a photograph of?

21 A. Yes, they do.

22 MR. PAUPORE: The State would offer the set
23 number of exhibits into evidence.

24 THE COURT: Mr. Sears?

25 MR. SEARS: Your Honor, I think that we

1 object. 3088, 89, and 91 are cumulative. They're cumulative
2 to 387, your Honor, and 3090.

3 THE COURT: So you're objecting to 3088 and
4 3089?

5 MR. SEARS: And 3091. And, your Honor, we
6 think that those three photos 88, 89, and 91 are simply
7 photographs of a different portion of what's displayed in
8 3087.

9 THE COURT: Okay. Exhibits 3087, 3090, 3092,
10 3093, 3094, 3095, and 3096 are admitted. At this time I'll
11 sustain a foundation judgment that 3088, 3089, and 3091 as to
12 cumulativeness, but unless there is further explanation for
13 the need for the photos.

14 MR. PAUPORE: May I see the photos, your
15 Honor?

16 THE COURT: Yeah. 308 --

17 MR. PAUPORE: 88, 89, and 91.

18 THE COURT: Correct.

19 MR. PAUPORE: And the photograph that was
20 admitted was 3087?

21 THE COURT: Correct.

22 MR. PAUPORE: And that's the measuring photo
23 as being cumulative to the other three that are being --

24 THE COURT: Well, the current judgment as to
25 88, 89, and 91 I sustain to foundation unless there's a

1 reason that distinguishes those.

2 MR. PAUPORE: May I have a moment, your Honor?

3 THE COURT: Yes, you may.

4 (Brief pause.)

5 MR. PAUPORE: Your Honor, may I ask further
6 foundational questions --

7 THE COURT: Yes, you may.

8 MR. PAUPORE: -- on those three photographs?

9 THE COURT: Yes.

10 BY MR. PAUPORE:

11 Q. Erin, I'm going to show you photographs exhibits
12 marked 3088, 89, and 3091 and ask you to look at those
13 photographs and if you can, tell us why you took them and
14 what is the distinguishing feature that you were trying to
15 capture.

16 A. These are all of the side of the desk showing blood
17 spatter.

18 Q. We're not saying what's in there.

19 A. Oh, okay. Could you ask the question again?

20 Q. Try to. How are -- how are those photographs --
21 why were those photographs taken and what are they intended
22 to show differently from the three that are there? First of
23 all, of the three photographs, none is the same photograph?

24 A. Correct.

25 Q. Are the three photographs of the same surface?

1 A. Yes.

2 Q. Are we talking about the desk?

3 A. Correct.

4 Q. Are the three photographs of the same location on
5 the desk?

6 A. The same general area, but not the exact same
7 location.

8 Q. Which ones are of the same -- is there a photograph
9 that is the same as the next one, or how is it different?
10 I'm trying to find out why you took them so they're not
11 duplicative of each other.

12 A. One is near the bottom of this item. These two are
13 near the top. I have the ruler on either side to make sure I
14 captured the whole side of the desk.

15 Q. Okay. So two of the photographs, if you look at
16 the back -- let me -- two of the photographs have the ruler
17 placed in different locations?

18 A. They're all in different locations.

19 Q. The rulers are all in -- all in different
20 locations. And why is that?

21 A. I had to capture the whole area straight on with
22 the ruler.

23 Q. And so you -- so one photograph with the ruler
24 could not capture the whole area?

25 A. That's correct, close up.

1 Q. Close up. So the distinguishing feature is the
2 manner in which the measurements can be viewed from the
3 photographs?

4 A. Right. And they show a slightly different area.

5 Q. And they're slightly different?

6 A. Yes.

7 Q. And it's -- again, those photographs were taken
8 according to your training of taking blood spatter at crime
9 scenes?

10 A. Yes, they were.

11 MR. PAUPORE: The State would reoffer Exhibits
12 88, 89, and 3091.

13 THE COURT: Mr. Sears?

14 MR. SEARS: I have a question or two, your
15 Honor.

16 THE COURT: Yes, you may.

17

18 V O I R D I R E E X A M I N A T I O N

19 BY MR. SEARS:

20 Q. Ms. Daniel, you've said several times that you have
21 no training or expertise in blood spatter analysis; is that
22 right?

23 A. That's correct.

24 Q. There is such a skill that requires particularized
25 training and experience; correct?

1 A. Yes, there is.

2 Q. And you don't have that?

3 A. Correct.

4 Q. And you are taking blood spatter photographs in
5 this room at the direction of whom?

6 A. I don't know a specific person.

7 Q. Okay. Do you have 3087 which has been admitted in
8 front of you?

9 MR. PAUPORE: She doesn't have it.

10 MR. SEARS: If you could find it, counsel, and
11 show it to her, please.

12 THE COURT: Thank you.

13 MR. PAUPORE: I'm handing the witness Exhibit
14 3087.

15 BY MR. SEARS:

16 Q. Now, 3087 has been admitted into evidence,
17 Ms. Daniel, and if you would look at that photograph and then
18 have 3088, 89, and 91 beside that. You would agree with me
19 that these are all photographs -- 87 in evidence and 88, 89,
20 and 91 for identification, these are all photographs of the
21 same side of the same desk in the same room; correct?

22 A. Yes.

23 Q. And that is the side of the desk -- if you're
24 coming in from the hallway, that's the surface of the desk
25 that you would first see; correct?

1 A. Yes.

2 Q. All right. And you said that you try to capture
3 different parts of this, but it's all one large area of
4 transferred blood, isn't it?

5 A. I can't make that analysis. It's all one area.

6 Q. It's all the same blood stain; correct?

7 A. I can't make that analysis.

8 Q. Okay. There's all kinds of blood evidence that's
9 visible in these photographs; correct?

10 A. Correct. I was attempting to capture all of it.

11 MR. SEARS: Okay. Same objection, your Honor.
12 I think 88, 89, and 91 are cumulative. They're photographs
13 of the same surface and the same stain as 87.

14 THE COURT: Overruled. 3088, 89, and 91 are
15 admitted.

16 MR. PAUPORE: Your Honor, I would ask to later
17 be able to publish some of these photographs to the jury when
18 we have a different setup as far as the overhead.

19 THE COURT: Okay.

20

21 D I R E C T E X A M I N A T I O N (Continued)

22 BY MR. PAUPORE:

23 Q. The next series coming your way. I'm going to ask
24 you to look at Exhibits 3097, 98, 99, 3101, 102, 103, 104,
25 105, 106, 107, and 108 and ask you to look at them and tell

1 us if you can identify them. And as you're going through
2 them, if some are -- if any of them are the same shot, please
3 pull that from that packet. You pulled one away. And --
4 okay.

5 3104 you find is somewhat similar to another
6 one in this packet?

7 A. Yes.

8 MR. PAUPORE: We'll withdraw the offering of
9 104 at this time.

10 THE COURT: Okay. 104 is withdrawn.

11 BY MR. PAUPORE:

12 Q. As to the remaining photographs, do they -- do you
13 recognize what's in the photographs?

14 A. Yes, I do.

15 Q. And you took these photographs on July 3rd, 2008?

16 A. Yes, I did.

17 Q. And do the items and objects in the photographs
18 fairly and accurately depict what you were trying to capture
19 when you took the photographs?

20 A. Yes, they do.

21 MR. PAUPORE: The State would offer all but
22 104 into evidence.

23 MR. SEARS: Your Honor, 97, 98, 99, and 3100
24 contain hearsay and I would object on that basis because I
25 have no objection to 3101, 02, 03, 05, 06, 07, and 08.

1 THE COURT: Okay. At this time, Exhibits
2 3101, 102, 103, 105, 106, 107, 108 are admitted.

3 And, Mr. Paupore, if I could please 3097, 98,
4 and 99.

5 MR. SEARS: And 3100, your Honor.

6 THE COURT: And 3100, correct.

7 MR. PAUPORE: So -- and the basis is the
8 hearsay objection?

9 THE COURT: That was what I -- that's what I
10 heard as the objection, and I haven't had a chance to see the
11 exhibits. That's what I was just asking, if I could see
12 them.

13 MR. PAUPORE: Sure.

14 THE COURT: Thank you.

15 I find that there's foundation for the
16 admission of the exhibits. However, Mr. Paupore, arguably
17 they may contain some hearsay. Can you respond to that?

18 MR. PAUPORE: These photographs, these
19 exhibits are not being offered for the purpose of containing
20 whatever information written or printed is in the
21 photographs. It's being offered for the purpose of showing
22 blood spatter.

23 THE COURT: Mr. Sears, if it is clarified to
24 the jury that any statements are not being offered and cannot
25 be considered for the truth, what about that?

1 MR. SEARS: Your Honor, I'm not sure exactly
2 how that would be done because 97 and 98 and 99 all contain
3 handwriting. 3100 contains a printed document. Difficult
4 for me to imagine how a person looking at those photographs
5 can remember that they are photographs of blood and not pay
6 some attention to what's written in these documents. That's
7 the hearsay foundation part of that.

8 Someone at some later date may well be able to
9 offer the necessary foundation to admit the written portions
10 of these documents. There are photographs taken from a
11 distance of the -- the writings in 97, 98, and 99 I think
12 that are illustrative of the blood spatter. These are simply
13 close-ups, but when you go to the close-up, it becomes clear
14 that you can see the writing. The same with 3100. We have
15 seen a number of photographs taken from slightly different
16 angles looking at the objects depicted in 3100 where you can
17 see blood. You just can't see it as close up.

18 THE COURT: Mr. Paupore?

19 MR. PAUPORE: What were those exhibits that --
20 I'm not sure.

21 THE COURT: The numbers are 3097, 98, 99, and
22 3100.

23 MR. PAUPORE: I heard Mr. Sears say that --
24 something to the effect that some of these were okay from a
25 blood spatter perspective, but one of them particularly had

1 handwritten information that you objected to.

2 MR. SEARS: My objection, your Honor, is that
3 97, 98, 99, and 3100, the first three contain handwritten
4 hearsay. 3100 contains some printed documents which are
5 easily readable in these photographs. The point I'm trying
6 to make is that we have other photographs that you previously
7 admitted that show these same objects and you can see blood
8 spatter from a distance. These are simply close-ups. From a
9 distance, you can't read the writing. And if the purpose is
10 to demonstrate the blood spatter, there's other photographs
11 that are appropriate for that.

12 MR. PAUPORE: Your Honor, with respect to
13 Exhibit 3100, there is some written records in there, but I
14 would submit those are business records and would be -- that
15 particular document itself would be exception to the hearsay
16 rule as being a business record. Later foundation is
17 anticipated to getting in business records. I can't say
18 specifically as to this exact item, but I know the bank
19 accounts and bank records will be -- be offered at a later
20 time. So that I don't believe is -- I would like to use that
21 and connect it up later under the business records exception
22 for 3100. And as to the other three items, we do anticipate
23 foundation as to the written words that are contained on
24 Exhibits 97, 98, and 99.

25 THE COURT: At this time, I find that there is

1 foundation to admit these photographs with the consideration
2 of blood spatter. In terms of having them photographed by
3 this witness, there's foundation regarding that. It may be
4 necessary to admit them in some redacted form for that
5 purpose.

6 At this time, I'm going to reserve for
7 argument outside the presence of the jury any nature of
8 hearsay evidence. So at this time I'm not admitting them
9 because of possible objectionable material. So at this time
10 3097, 98, 99, 3100 are not admitted, but I did find
11 foundation through this witness.

12 MR. PAUPORE: Thank you, your Honor.

13 BY MR. PAUPORE:

14 Q. Erin, I'm going to show you Exhibit 3103 and ask if
15 you can tell us why you took this photograph?

16 A. This shows that the desk -- the computer on the
17 desk and I was trying to photograph little area of blood
18 spatter behind the computer.

19 THE COURT: And that number is what,
20 Mr. Paupore? Excuse me. The number on that exhibit?

21 MR. PAUPORE: I'm sorry, your Honor. I
22 think -- 3103.

23 THE COURT: Thank you.

24 BY MR. PAUPORE:

25 Q. So you're trying to show -- you see blood right

1 there? When you took that picture, you saw blood?

2 A. Yes.

3 Q. Let me show you what's been marked and admitted
4 into evidence as 3105. Is that a close-up?

5 A. Yes, it is.

6 Q. Okay. That's why you took that shot?

7 A. Exactly.

8 Q. 3102. What were you trying to capture in 3102?

9 A. This is the computer screen, and this is a smear of
10 blood.

11 Q. Okay. Thank you.

12 MR. SEARS: I'm sorry. I missed the end of
13 that answer, your Honor.

14 THE COURT: Could you please repeat that,
15 Ms. Daniel?

16 THE WITNESS: A smear of blood on the computer
17 screen.

18 MR. SEARS: Thank you, your Honor.

19 THE COURT: You're welcome.

20 BY MR. PAUPORE:

21 Q. I'm going to show you what's been marked as
22 items 109 -- 3109, 3110, 11, 12, 13, 14, 15, 16, 17, and 18
23 and the same drill as before. If you see any that are
24 duplicative or of the same shot, closely resembling the same
25 shot, pull them out of your stack.

1 And you recognize those photographs, Erin?

2 A. Yes, I do.

3 Q. Taken by yourself on July 3rd, 2008?

4 A. Yes.

5 Q. Okay. And you recognize what's depicted in the
6 photographs?

7 A. Yes, I do.

8 Q. And do the photographs fairly and accurately depict
9 what you were intending to capture when you took that
10 photograph --

11 A. Yes.

12 Q. -- those photographs?

13 A. Yes, they do.

14 Q. And are each one of them a different area taken for
15 a different purpose?

16 A. Right. The same -- some are in the same general
17 area, but they all show different close-ups of different
18 blood spatter.

19 MR. PAUPORE: The State would offer these
20 exhibits into evidence.

21 THE COURT: Mr. Sears?

22 MR. SEARS: Your Honor, could I see 16, 17,
23 and 18, please, from the witness? No objection.

24 THE COURT: 3109 through 3118 inclusive are
25 admitted.

1 BY MR. PAUPORE:

2 Q. Erin, looking at Exhibit 3116, can you tell us what
3 you were taking a picture of here?

4 A. This is the side of the computer tower. I think
5 there are areas of blood on it.

6 Q. So you were trying to capture that?

7 A. Yes.

8 MR. SEARS: Objection. Foundation for that
9 statement, your Honor.

10 THE COURT: Sustained.

11 MR. SEARS: Move to strike.

12 THE COURT: That answer is stricken.

13 BY MR. PAUPORE:

14 Q. Showing you what has been marked as 3117. Can you
15 tell us why you took that photograph?

16 A. I can't see in this light.

17 Q. You were trying to capture something there I guess?

18 A. Yes.

19 Q. No more questions on that exhibit.

20 I'm going to show you Exhibits numbering 3120,
21 121, 122, 123, 124, 125, 126, 27, 28, and 132. Erin, did you
22 look through all the photographs?

23 A. Yes, I did.

24 Q. Do you recognize those photographs?

25 A. Yes, I do.

1 Q. Are those the photographs that you took at the
2 crime scene at Bridle Path on July 3rd, 2008?

3 A. Yes, they are.

4 Q. Do the photos fairly and accurately depict what you
5 were trying to capture when you took those photographs?

6 A. Yes, they do.

7 Q. Are any of them the same as the -- as any other one
8 in that packet?

9 A. There are two that look similar, but I can't say
10 for sure. They're of different areas.

11 Q. Can you point out the ones that you believe are
12 similar.

13 MR. PAUPORE: The State will not offer 3121.

14 MR. SEARS: Your Honor, may I see all the
15 photographs, please, or would you like to see them first?

16 THE COURT: Mr. Sears, if you would --
17 counsel -- Mr. Paupore, what did you say about 3121?

18 MR. PAUPORE: The State is not going to be
19 offering 3121.

20 THE COURT: Okay. 3121 is withdrawn.

21 MR. SEARS: These are out of order. It will
22 just take me a second.

23 THE COURT: Okay.

24 MR. SEARS: Your Honor, with respect to 3132,
25 we object. It also contains hearsay such of the same

1 argument about foundation. I see what appears to be a drop
2 of what might be blood on these documents, but they're
3 handwritten documents of printed documents. I have no
4 objection to the remaining exhibits, which I think are 20,
5 22, 23, 24, 25, 26, 27, and 28.

6 THE COURT: 3120 and then 3122 through 3128
7 inclusive are admitted. And if I may see 3122, please.

8 MR. SEARS: This is 3122, your Honor. These
9 have been admitted.

10 THE COURT: Mr. Paupore, would you have any
11 comments in addition to what you had stated with regard to
12 3088, 89, and 91?

13 MR. PAUPORE: If I didn't say it then, that
14 photograph is not being offered to prove the truth of the
15 matter. It's simply for the purpose of blood spatter
16 evidence.

17 THE COURT: I'm going to do the same thing I
18 did with the other exhibits and that is I find that there is
19 sufficient foundation through this witness to admit the
20 exhibit; however, subject to later argument, I'm going to
21 consider the content of the writing and whether or not that's
22 objectionable. So at this time, 3122 is not admitted.

23 MR. SEARS: Your Honor, may we ask what
24 happened to 3130 and 3131? Are they not being offered?

25 MR. PAUPORE: Correct.

1 MR. SEARS: Thank you.

2 MR. PAUPORE: If there's a sequence in the
3 numbers of photographs, it's because we pulled them during
4 the break.

5 THE COURT: 31 and 32.

6 BY MR. PAUPORE:

7 Q. Erin, I'm going to show you 3124. Can you see that
8 from your --

9 A. Yes.

10 Q. And you were trying to do what with this
11 photograph?

12 A. Capture the blood there on the part of the desk.

13 Q. So you were eyeballing this room as you went around
14 and every -- every point where you saw what appeared to be a
15 blood stain, you took a picture of?

16 A. That's what I attempted to do, yes.

17 Q. And that's what -- that's what you were supposed to
18 be doing?

19 A. Yes.

20 Q. And that's based upon your -- your training as a
21 crime scene photographer and your five years experience in
22 going to crime scenes and taking photographs?

23 A. Yes, it is.

24 Q. I'm going to show you what's been marked Exhibits
25 3133, 34, 35, 36, 37, 38, 39, 40, 41, and 42 and ask you to

1 take a look at them for the same reasons I asked you a couple
2 times before.

3 And you've pulled out number 3139. Yes, 39.
4 Correct?

5 A. Yes.

6 Q. And because?

7 A. It's almost exactly the same as 40.

8 MR. PAUPORE: Okay. The State will not be
9 offering 3139.

10 THE COURT: Okay.

11 BY MR. PAUPORE:

12 Q. The -- do you recognize the -- what was in the
13 photographs?

14 A. Yes, I do.

15 Q. And you took those photographs the rest of them on
16 July 3rd, 2008?

17 A. Yes, I did.

18 Q. And are they a fair and accurate representation of
19 what you were intending to photograph when you took the
20 photograph on that date?

21 A. Yes, they are.

22 MR. PAUPORE: The State offers said numbered
23 exhibits into evidence with the exception of the one that was
24 not being offered.

25 THE COURT: Okay. Mr. Sears, have you seen

1 these?

2 MR. SEARS: I have, your Honor.

3 THE COURT: Okay. If I could have a minute.

4 Mr. Sears?

5 MR. SEARS: A question or two, your Honor.

6 THE COURT: Yes.

7

8 V O I R D I R E E X A M I N A T I O N

9 BY MR. SEARS:

10 Q. Ms. Daniel, if you could look at 3133 through 3137
11 for just a moment, please, in front of you. Do you have them
12 or does the Judge have them?

13 THE COURT: Mr. Paupore will hand those out,
14 please.

15 MR. PAUPORE: Yes, sir.

16 THE COURT: Thank you.

17 MR. PAUPORE: The numbers again, Mr. Sears?

18 MR. SEARS: 3133 through 3137.

19 BY MR. SEARS:

20 Q. Ms. Daniel, these are all photographs of what
21 appear to be small drops of -- of possibly blood on some
22 surface; correct?

23 A. Yes.

24 Q. Okay. And to highlight them, they're all circled
25 with a marker or a Sharpie; right?

1 A. Yes.

2 Q. And then the -- the scale is laid near all of them
3 in each of these photographs; correct?

4 A. Yes.

5 Q. On what object are these drops?

6 A. I'd have to look at the overall crime scene photos,
7 but I think there was a chair.

8 Q. Okay. You said earlier I thought that one of your
9 goals in crime scene photography, particularly of blood
10 evidence, was to be able to document where the possible blood
11 was located; correct?

12 A. Yes.

13 Q. As you look at each of these photos, 3133 through
14 3137, can you tell us here today on what part of this chair
15 each of the drops in each of the photographs was located?

16 A. No, I can't.

17 Q. Even if you were to look at the overall photographs
18 of the chair, would you be able to tell us, for example,
19 where the two possible blood drops in 3133 are actually
20 located?

21 A. No, I couldn't.

22 MR. SEARS: Foundation as to 3133 through
23 3137, your Honor. No objection to 3138 through 3142.

24 THE COURT: 3138, 3140, 3141 and 3142 are
25 admitted.

1 Mr. Paupore, as to 3133 through 37, legal
2 response to Mr. Sears objection as to foundation?

3 MR. PAUPORE: Your Honor, perhaps I could ask
4 the witness a couple of more questions --

5 THE COURT: You may.

6 MR. PAUPORE: -- in response.

7

8 D I R E C T E X A M I N A T I O N (Continued)

9 BY MR. PAUPORE:

10 Q. You saw a chair in the office or -- you saw a chair
11 in the office?

12 A. I'd have to look at a different photo to refresh my
13 memory.

14 Q. Okay. So another photograph of a chair if -- I'm
15 sure we have one would help you refresh your recollection as
16 to where -- why you -- where that chair was when you took the
17 photograph?

18 A. Yes.

19 MR. PAUPORE: Your Honor, we'll pull those
20 photographs off to the side for just a moment and look during
21 the break for a photograph that might help us with this.

22 THE COURT: Then at this time the objection is
23 sustained as to 3133 through 37.

24 MR. SEARS: Your Honor, did you --

25 THE COURT: Did I misspeak? If I misspoke,

1 let's clear that up.

2 MR. SEARS: I'm sorry, your Honor, I
3 interrupted you. I'm sorry. Did you previously admit 3139?

4 THE COURT: 3139 was withdrawn.

5 MR. SEARS: Withdrawn. Thank you.

6 MR. PAUPORE: So until we get further
7 foundation, 3137, 38 -- excuse me. So I keep these
8 photographs straight, your Honor, 33, 34, 35, 36, and 37
9 are -- need additional foundation; am I correct?

10 THE COURT: That's 33 through 37 I sustained
11 the foundation objection.

12 MR. PAUPORE: Thank you.

13 BY MR. PAUPORE:

14 Q. Take a look at, Erin, 3138 on the screen. And what
15 do you -- what are you taking a photograph of?

16 A. This is the side of the bookshelf, and there is
17 blood spatter on it.

18 Q. Okay. And looking at 3142?

19 A. I can't tell, but if this is in sequence with the
20 others, then this would be a closer-up photo.

21 Q. Is that -- does that appear to be the same
22 bookshelf?

23 A. I'd have to see the -- make sure the numbers were
24 in sequence. Yes, this is part of the same bookshelf.

25 Q. So they're in somewhat of a sequence and you can

1 tell it's the photograph of the bookshelf at different
2 distances for each photograph?

3 A. Yes.

4 Q. Did you organize them as the way they're supposed
5 to be?

6 A. I tried.

7 Q. Okay. We'll go through this quickly because I know
8 we're approaching the noon hour.

9 3140. Let me start with this one. 3138,
10 would that be the wide view?

11 A. Yes.

12 Q. And then would 3140 be a closer-up?

13 A. Yes.

14 Q. 3142 closer-up?

15 A. Yes.

16 Q. Lastly, 3141?

17 A. That's a close-up of a different one on the same
18 bookshelf.

19 Q. Different -- different stain on the same bookshelf?

20 A. Yes.

21 MR. PAUPORE: You want to keep going?

22 THE COURT: It's time for the noon recess. If
23 you have something briefly you just wanted to --

24 MR. PAUPORE: Just more of the same, your
25 Honor.

1 THE COURT: Well, let's go ahead and take the
2 noon recess then, ladies and gentlemen. Let's again remember
3 the admonition, of course. Please be back in the jury room
4 by 1:20, and you are excused then for the noon recess.

5 And, Ms. Daniel, remember the rule of
6 exclusion.

7 Thank you. We are in recess.

8 (Recess from 12:02 p.m. to 1:24 p.m.)

9 THE COURT: Thank you. Please be seated.

10 The record will show the presence of the
11 defendant, all of the attorneys, and the jury. The witness,
12 Ms. Daniel, is on the witness stand and has previously been
13 sworn.

14 You may continue, Mr. Paupore.

15 MR. PAUPORE: Thank you, your Honor.

16 BY MR. PAUPORE:

17 Q. Good afternoon, Erin.

18 A. Good afternoon.

19 MR. PAUPORE: May I approach, your Honor?

20 THE COURT: Yes.

21 BY MR. PAUPORE:

22 Q. Erin, I want you to take a look at what's been
23 marked as Exhibit 3215. I'm going to ask you if you
24 recognize that photograph.

25 A. Yes, I do.

1 Q. And did you -- how do you recognize it?

2 A. It's part of the set of photographs that I took at
3 the scene on the July 3rd, 2008.

4 Q. That's one of your photographs?

5 A. Yes, it is.

6 Q. And does that photograph fairly and accurately
7 depict the objects therein when you took that picture?

8 A. Yes, they do -- it does.

9 MR. PAUPORE: The State would offer 3215 into
10 evidence.

11 MR. SEARS: No objection.

12 THE COURT: 3215 is admitted.

13 MR. PAUPORE: Your Honor.

14 THE COURT: Okay. Thank you.

15 BY MR. PAUPORE:

16 Q. Erin, earlier this morning, we had some
17 photographs. You had a little difficulty identifying what
18 object they were taken from. Do you recall that?

19 A. Yes.

20 Q. Okay. I show you, Erin, what's been admitted as
21 Exhibit 3215.

22 Thank you, Mr. King. Try this again.

23 Can you see that photograph, Erin?

24 A. Yes.

25 Q. And what's -- what was the -- what's in this

1 photograph as to the reason why you took it?

2 A. You can see the door to the outside and also the
3 chair, the white chair that we were talking about earlier.

4 Q. And can you tell us what room of the house this is
5 in?

6 A. This is also from the office.

7 Q. Okay. Now, this white chair, did you photograph
8 some red-brownish stains on it?

9 A. Yes, I did.

10 Q. And we had talked about some of that this morning?

11 A. Yes.

12 Q. I'm going to ask you now to take another look at
13 what's been previously marked as Exhibits 3137, 3136, 3135,
14 3134, 3133. Looking at the exhibits I just handed you, can
15 you now tell us if you remember taking any photographs that
16 are the photographs in front of you from the photographed
17 white chair that's on the screen in Exhibit 3215?

18 A. Yes. These photographs in front of me show a
19 closer-up photographs of the chair that is shown up there.

20 Q. And those four photographs were taken by you and
21 they were taken on certain locations of that white chair on
22 3415?

23 A. Yes.

24 MR. PAUPORE: The State would reoffer.

25 MR. SEARS: A few questions, your Honor.

1 THE COURT: Okay.

2

3 V O I R D I R E E X A M I N A T I O N

4 BY MR. SEARS:

5 Q. Ms. Daniel, looking at 3215 up on the screen there,
6 you can't see any circled drops of what may be blood in that
7 photograph, can you?

8 A. Right. They're not circled. On the screen you
9 can't see it, but on the actual photograph, you can see two
10 dots on the chair.

11 Q. Okay. Of the two dots that you can see on 3215 --
12 first of all, can you take the laser pointer and show the
13 jury where you're talking about?

14 A. I think it's right here. But with the light, you
15 can't see it.

16 Q. Why don't you step down if it's easier or take a
17 look at the photograph.

18 MR. PAUPORE: How about if I hand her the
19 photograph?

20 MR. SEARS: That would be better. Thank you.

21 THE WITNESS: So I can see two red spots --

22 MR. SEARS: Okay.

23 THE WITNESS: -- on the arm of the chair,
24 which corresponds with the first exhibit that showed two red
25 spots with the ruler.

1 BY MR. SEARS:

2 Q. You think or you're sure?

3 A. They do.

4 Q. You think or are you sure?

5 A. I'm sure.

6 Q. Okay. So that's 3133 are the two dots that you can
7 see on the arm of the chair in 3215, the picture of the
8 chair; correct?

9 A. Yes. I don't know the exhibit numbers.

10 MR. PAUPORE: This -- I'm showing you 3133.

11 THE WITNESS: Yes.

12 BY MR. SEARS:

13 Q. So on 3215, which is the picture of the chair, can
14 you see any other circled dots other than the two on the arm
15 that you say are depicted in 3133?

16 A. No, I can't.

17 Q. Okay. Is that the only picture of the chair other
18 than these close-ups that you took on July 3, 2008?

19 A. No. There are further pictures in this sequence.

20 Q. Were you able to find any pictures that would help
21 you tell us today where the dots in 3134, 35, 36, and 37 are
22 located on that chair?

23 A. I'd have to see the other ones. I can see the one
24 that shows the sheepskin-looking cover or something. That
25 one is lower on the -- on the chair.

1 Q. Maybe that's 3134. Mr. Paupore will show you that
2 one.

3 MR. PAUPORE: 3134 for the witness.

4 THE WITNESS: Yes, that has some sheepskin
5 edge on it so that would be near that, but I can't say exact
6 location. Also, the other one --

7 BY MR. SEARS:

8 Q. Back up. Can you see on 3215 the picture of the
9 chair; right, from a distance, can you see the same dot
10 that's circled that is depicted close up in 3134?

11 A. No.

12 Q. Okay. And, again, can you see any of the other
13 dots in 3135, 36, or 37 on the picture of the chair?

14 A. Not -- no, not this picture.

15 Q. Okay. If I understood what you said, the purpose
16 of taking both the close-ups and the distance photos is to
17 assist the trier of fact, this jury, ultimately in
18 understanding where this evidence was when it was
19 photographed; correct?

20 A. Correct, along with someone if they wanted to do
21 blood spatter analysis.

22 Q. Okay. But in terms of your photographic work in
23 this case, you were trying to represent where these items
24 were; correct?

25 A. Yes.

1 Q. And here today you tell us that you can't tell us
2 where on the chair any of the circled dots were except the
3 one in -- the two in 3133? Is that what you're saying right
4 there?

5 A. I'm saying I can't see them in this photograph that
6 I was given, 3215.

7 Q. Well, we've had an hour and a half break here. Did
8 you look at any other photographs of the chair other than
9 3215 over the lunch break?

10 A. Just real quickly.

11 Q. Okay. Were you able to see any of the circled dots
12 in any of those other photos other than 3215 that you looked
13 briefly over the lunch hour?

14 A. I didn't look at them close enough to find each and
15 every colored dot.

16 MR. SEARS: Foundation. Relevance, your
17 Honor. I will withdraw my objection to 3133.

18 THE COURT: 3133 is admitted. As to 3134
19 through 37, Mr. Paupore?

20 MR. PAUPORE: Another attempt for foundation.

21 THE COURT: You may.

22

23 D I R E C T E X A M I N A T I O N (Continued)

24 BY MR. PAUPORE:

25 Q. Is there any other like chair in that room that is

1 depicted in 3215?

2 A. No, there's no other chair similar to that chair in
3 the room.

4 Q. No other chair having that same kind of fabric?

5 A. Correct.

6 Q. That is the only chair in that room with that white
7 kind of fabric that is shown on 3215?

8 A. Yes.

9 Q. And the photographs that you have in front of you,
10 including 3135, 3136, 3137, looking at photographs there,
11 does that appear to be the same fabric on the chair that is
12 depicted in 3215?

13 A. Yes.

14 MR. PAUPORE: The State would move for --

15 MR. SEARS: Foundation and relevance. If the
16 jury can't understand where these supposed blood spots are on
17 the chair, it is of no use to them. The pictures then have
18 no relevance.

19 THE COURT: I find that there is foundation.
20 At this point sustained as to relevance.

21 MR. PAUPORE: So for my information 30 --

22 THE COURT: 34, 35, 36, and 37 I sustained an
23 objection as to relevance on those.

24 MR. PAUPORE: Okay.

25 THE COURT: And 3133 is admitted.

1 MR. PAUPORE: Thank you, your Honor. May I
2 publish 3133?

3 THE COURT: Yes.

4 BY MR. PAUPORE:

5 Q. Can you tell us why you took that photograph?

6 A. It's a close-up of the blood spatter on the arm of
7 the chair.

8 Q. And the ruler again is for orientation purposes?

9 A. Right, and to see the size of the stain.

10 Q. And to make sure that your angle of the photograph
11 is discernible by somebody else?

12 A. Yes.

13 Q. Next I want you to take a look at photographs that
14 have been marked as 3143, 144, 145, 146, 147, 149, 150, 151,
15 152, and 153 and ask you if you can look at these photographs
16 and if you can identify the photographs for us. Have you had
17 a chance to look at the photographs, Erin?

18 A. Yes.

19 Q. And do you recognize the photographs?

20 A. Yes, I do.

21 Q. And how do you recognize them?

22 A. They are photographs that I took on July 3rd,
23 2008.

24 Q. And they were taken at the Bridle Path residence?

25 A. Yes.

1 Q. And do the images in the photographs fairly and
2 accurately represent what you were looking at when you took
3 the photographs at the time you took them?

4 A. Yes.

5 Q. Are any of the photographs duplicate or the same in
6 any way?

7 A. They show -- they all show slightly different areas
8 of one item.

9 MR. PAUPORE: Okay. The State would move for
10 the admission of the aforementioned exhibits.

11 MR. SEARS: No objection.

12 THE COURT: Exhibits 3143, 44, 45, 46, 47, 49,
13 50, 51, 52, and 53 are admitted.

14 MR. PAUPORE: Thanks, your Honor.

15 BY MR. PAUPORE:

16 Q. I'm going to show you admitted Exhibit 3149. And
17 what were you trying to show in that photograph?

18 A. It's a close-up of blood spatter.

19 Q. And by looking at this photograph, can you tell
20 where the -- what object is that you were photographing?

21 A. From the sequence of photos that I looked at, it's
22 from the tipped-over bookshelf, the side of it.

23 Q. You can tell from the rest of the exhibits that
24 that's the bookshelf side?

25 A. Yes.

1 Q. Let's take a revisit to 3215. I don't think I
2 asked you this question. You cannot -- your answer was you
3 cannot see where the reddish-brown stains are -- all the
4 reddish-brown stains are located on this exhibit?

5 A. Correct, in that photograph.

6 Q. Can -- do you remember where the -- where the
7 reddish-brown stains were when you took the photographs that
8 we -- the three photographs we just talked about earlier?

9 A. I don't remember.

10 Q. Okay. Thank you.

11 I want to show you Exhibits -- proposed
12 Exhibits 3154, 156, 157, 158, 159, 160, 163, 164, 165, and
13 166. Have you take a look at these exhibits and see if you
14 can identify them. Have you looked at the exhibits?

15 A. Yes, sir.

16 Q. Do you recognize them?

17 A. Yes, I do.

18 Q. And how do you recognize them?

19 A. They're the photographs that I took on July 3rd,
20 2008.

21 Q. And do the photographs that you just looked through
22 fairly and accurately show the object that you were
23 photographing when you took it?

24 A. Yes.

25 Q. Okay. Any of them similar or the same?

1 A. No.

2 MR. PAUPORE: The State would offer said
3 numbered exhibits into evidence.

4 THE COURT: Thank you. Mr. Sears?

5 MR. SEARS: Question, your Honor.

6 THE COURT: Yes.

7

8 V O I R D I R E E X A M I N A T I O N

9 BY MR. SEARS:

10 Q. Ms. Daniel, looking at 3155 and 3156, please.

11 THE COURT: Mr. Paupore, show those to the
12 witness, please.

13 MR. PAUPORE: Yes, sir. Is that 55 and 56?

14 MR. SEARS: 55 and 56.

15 MR. PAUPORE: I do not see a 55.

16 THE COURT: It wasn't offered in the initial
17 list.

18 MR. SEARS: Not 55 or 56?

19 THE COURT: 56.

20 MR. PAUPORE: 56 was.

21 MR. SEARS: Then I have no objection. If 55
22 is not being offered, then I have no objection.

23 THE COURT: Then Exhibits 3154 through --
24 well, there were some skips in there. 3154, 56, 57, 58, 59,
25 60, 63, 64, 65, and 66 are admitted.

1 MR. PAUPORE: Thank you, your Honor.

2

3 DIRECT EXAMINATION (Continued)

4 BY MR. PAUPORE:

5 Q. Erin, 3154 exhibit again is a familiar object, and
6 it's taken for what purpose?

7 A. Right. That's showing further back view of the
8 bookshelf that I had taken from closer-up photos of.

9 JUROR NUMBER TWO: What exhibit?

10 MR. PAUPORE: 3154. Is that what I said?
11 3154.

12 BY MR. PAUPORE:

13 Q. I want to show you another exhibit that's been
14 marked -- or admitted into evidence as 3156. And what's the
15 purpose of that photograph?

16 A. This is kind of showing the back corner of the room
17 and it's a further-back photograph of blood spatter that I
18 later take a close-up picture of.

19 Q. And you're -- well, is that Kortney Snider --

20 A. Yes.

21 Q. -- in the photograph?

22 So you're trying to get a wide shot of what
23 you found to be a red -- red-brownish stain on the wall?

24 A. Yes.

25 Q. And I think Mr. Sears will appreciate this shot

1 because he was looking for it before. Do you know what that
2 object in the window ledge is?

3 A. Looks like some sort of charger.

4 Q. It does, doesn't it? Here is another shot a little
5 closer up. Not that easy to see on this. Those red-brownish
6 dots are what you were attempting to capture in this
7 photograph?

8 A. Yes.

9 Q. Thank you.

10 MR. SEARS: Your Honor, while we're moving on,
11 could I ask the Court whether 3147 has been admitted?

12 THE COURT: Would you check that number, and
13 I'll check mine too.

14 MR. SEARS: The reason I said it, your Honor,
15 is we have a note from the State saying that they were not
16 offering it today, but we think that it may have been
17 admitted somehow.

18 THE COURT: I think it was. I would have to
19 review after the break.

20 MR. SEARS: Maybe we could check with the
21 State and see if they really -- why they would put that note
22 on this one why they intended to offer it or not.

23 MR. PAUPORE: Your Honor, the State at this
24 time would like to withdraw Exhibit 3147, which is more
25 consistent with some earlier -- one second, your Honor.

1 THE COURT: Yes.

2 (Brief pause.)

3 THE COURT: Mr. Paupore?

4 MR. PAUPORE: 31 -- 3148 should be entered,
5 your Honor. 3147 should remain in. The numbers are just
6 flying around in my head and I'm just trying to keep it
7 straight. The one that was previously admitted should stay
8 admitted.

9 THE COURT: Okay. I'll confirm that 3147 has
10 been admitted. 3148 was never offered.

11 MR. SEARS: Thank you, your Honor.

12 MR. PAUPORE: Right. Thank you, your Honor.

13 BY MR. PAUPORE:

14 Q. I show you what's been marked as Exhibits 3167, 68,
15 69, 70, 171, 172, 173, 174, 175, and 176. I'm going to ask
16 if you could take a look through those photographs and
17 identify them for us, please. You have removed from that
18 packet Exhibit Numbers 3173 and 3169?

19 A. Yes.

20 Q. And why did you do that?

21 A. They're duplicates of other photos in the packet.

22 Q. Can you identify by the exhibit the other
23 photographs you mean are similar, please.

24 A. Exhibit 170 is almost the same as 169. And 174 is
25 similar to 173.

1 Q. Okay. As to the other photographs that I showed
2 you, do you recognize them?

3 A. Yes, I do.

4 Q. And how do you recognize them?

5 A. They're the photographs that I took on July 3rd,
6 2008.

7 Q. And do those photographs accurately and --
8 accurately reflect the objects that you were attempting to
9 photograph when you photographed them on July 8th, 2008?

10 A. July 3rd, yes.

11 Q. July 3rd, 2008?

12 A. Yes.

13 MR. PAUPORE: Okay. The State would move for
14 the admission of -- would not move for the admission of 3173
15 and 3169, but would move for the remainder of the exhibits
16 that were aforementioned.

17 THE COURT: Mr. Paupore, could I see the
18 exhibits, please?

19 MR. PAUPORE: Yes, sir.

20 (Brief pause.)

21 MR. SEARS: Could the witness be shown 3167
22 and 3168 for purposes of some voir dire, your Honor?

23 THE COURT: Please check my numbers,
24 Mr. Paupore.

25 MR. SEARS: Your Honor, while we're doing

1 that, I have no objection to 3170, 71, 72, 74, 75, or 76, the
2 remaining photos.

3 THE COURT: Okay. Those exhibits are
4 admitted.

5 MR. SEARS: Thank you.

6 MR. PAUPORE: Erin, I'm going to show you
7 Exhibits 3168 and 3167, and Mr. Sears has some questions.

8 MR. SEARS: Thank you.
9

10 V O I R D I R E E X A M I N A T I O N

11 BY MR. SEARS:

12 Q. Those are Kortney Snider's fingers in these
13 photographs?

14 A. Yes.

15 Q. Okay. And can you tell me on what object or what
16 surface this drop that's photographed in both of these
17 pictures was located?

18 A. On 68 you can see the top of some shelf-type things
19 that were sitting near that closet area. I don't know if
20 they came from the bookshelf. They were similar to the
21 bookshelf.

22 Q. So both of these. These are two photographs of the
23 same drop, the difference being that 3167 is taken a bit
24 closer in; correct?

25 A. I think they're different.

1 Q. You think they're two different drops?

2 A. I believe so.

3 MR. SEARS: That being the case, I have no
4 objection to 61 and 68, your Honor.

5 THE COURT: 3167 and 68 are admitted.

6

7 D I R E C T E X A M I N A T I O N (Continued)

8 BY MR. PAUPORE:

9 Q. 3157 is the exhibit that was on there for a while,
10 on there being the ELMO.

11 I'm going to show you Exhibit 3175, and you
12 took that photograph?

13 A. Yes.

14 Q. And do you remember where in the room you took it?

15 A. There's a stack of books that was kind of near the
16 opening to the closet.

17 Q. And you took it to identify or mark the
18 red-brownish stains that appear in the photograph?

19 A. Yes.

20 Q. I'm showing you 3176. Is that some more books from
21 the same closet?

22 A. Same stack of books. The top one is the same as
23 the previous photo.

24 Q. The top one on the far right that says Bradway?

25 A. Yes.

1 Q. Next, Erin, I'd like to show you Exhibit
2 Numbers 3177, 78, 79, 182, 183, 184, 185, 186, 188, 189 and
3 ask you to look at them and tell me if you can identify those
4 exhibits. Have you had a chance to look at all of those
5 photographs?

6 A. Yes.

7 Q. Can you identify them?

8 A. Yes, I can.

9 Q. How can you identify them?

10 A. They are photographs that I took on July 3rd,
11 2008.

12 Q. And do those photographs accurately reflect the
13 object that you were photographing on July 3rd, 2008?

14 A. Yes.

15 MR. PAUPORE: The State would offer the
16 aforementioned exhibits into evidence.

17 (Brief pause.)

18 MR. SEARS: Thank you. Your Honor, could the
19 witness be shown 82, 83, 84, and 89, please.

20 THE COURT: Okay. Mr. Paupore, check those
21 numbers, please. The ones on the right are the ones that
22 Mr. Sears doesn't need.

23 MR. SEARS: With respect to the other numbers,
24 your Honor, I have no objection, so that would be 77, 78, 79,
25 86, 88 -- and 80.

1 THE COURT: I'm sorry.

2 MR. SEARS: 86 and 88.

3 THE COURT: Okay.

4 MR. PAUPORE: And I'll be showing the witness
5 182, 183, 184, and 189.

6 MR. SEARS: 185 and 189.

7 THE COURT: So 3177, 78, 79, 86, and 88 are
8 admitted.

9 MR. SEARS: Yes, sir.

10 THE COURT: Without objection.

11

12 V O I R D I R E E X A M I N A T I O N

13 BY MR. SEARS:

14 Q. Ms. Daniel, these are pictures that are of one or
15 the other of a pair of tall bookshelves that you told us
16 about that were in the room near the body; correct?

17 A. Yes.

18 Q. Now, when you arrived on the scene and first went
19 into the room, can you tell us what the condition of those
20 two bookshelves were?

21 A. The one was tipped over in kind of the middle of
22 the room.

23 Q. And one was standing straight up?

24 A. I don't recall the other one.

25 Q. Okay. Did you ever see the two bookshelves when

1 they were both pushed over one into the other and one into
2 the wall?

3 A. I don't remember. I would have to look at a
4 picture.

5 Q. Would you agree with me these pictures 82, 83, 84,
6 85, and 89 all show a bookshelf standing upright?

7 A. Correct.

8 Q. Did you or Kortney Snider set either one of the
9 bookshelves back up to take any of these pictures?

10 A. We did not.

11 Q. Did Sheriff's personnel do that for you?

12 A. Yes.

13 Q. Who did that?

14 A. I don't remember the specific person.

15 Q. Did they do that at your request?

16 A. I think so, yes, because we had to capture some
17 areas we couldn't get to when it was tipped over.

18 Q. Okay. Which of the two bookshelves was set right
19 side up?

20 A. This is the one that was in the middle of the room,
21 I think.

22 Q. Is it the one with the broken top that you can see
23 in 84?

24 A. Right.

25 Q. Okay. That one was -- was stood upright. Is that

1 bookshelf that's pictured in 84 the same bookshelf in the
2 other pictures, or are they pictures of two different
3 shelves?

4 A. I can't tell.

5 MR. SEARS: Foundation.

6 THE COURT: Mr. Paupore.

7

8 D I R E C T E X A M I N A T I O N (Continued)

9 BY MR. PAUPORE:

10 Q. How many bookshelves were in that room?

11 A. Two.

12 Q. And they're pretty much identical?

13 A. I don't remember, but I think so.

14 Q. As far as looking at it just it looked the same to
15 you?

16 A. Yes.

17 Q. And the photographs that you are looking at there
18 are taken from either one or the other?

19 A. Yes.

20 Q. And you just can't tell which bookshelf --

21 A. Correct.

22 Q. -- correct? But there are only two in the room;
23 correct?

24 A. Yes.

25 Q. And did you -- is that the only photograph that you

1 took of that red-brownish stain on that particular bookshelf
2 that you're looking at?

3 A. I don't remember.

4 Q. Would you have taken more than one photograph of
5 a -- of a red-brownish stain?

6 A. Yes.

7 Q. And you can't be sure? Which one are you not sure
8 of? Which exhibit?

9 A. I can't tell. I'd have to look at them in the
10 sequence of my photograph.

11 Q. The ones I have in my hand?

12 A. Yeah. Yes.

13 Q. Yes?

14 A. 181.

15 MR. PAUPORE: 181, your Honor.

16 THE COURT: 181.

17 MR. PAUPORE: I think that's already in, your
18 Honor.

19 MR. BUTNER: No, you did not offer it.

20 MR. PAUPORE: It wasn't offered yet?

21 MR. BUTNER: No.

22 THE COURT: It wasn't offered in that series
23 anyway.

24 MR. PAUPORE: Your Honor, I'll -- we'll not
25 offer those with the exception of the one that Mr. Sears did

1 not object to.

2 THE COURT: So I have 77, 78, 79, 86, and 88
3 admitted. So then 82, 83, 84, 85, and 89 are withdrawn?

4 MR. PAUPORE: 82, 83, 84, 85, and 89 are
5 withdrawn.

6 THE COURT: Okay. Then those are withdrawn.

7 MR. SEARS: Put up the numbers one more time,
8 your Honor.

9 THE COURT: 82, 83, 84, 85, and 89 were
10 withdrawn.

11 MR. SEARS: Thank you, your Honor.

12 BY MR. PAUPORE:

13 Q. Erin, take a look at on the ELMO Exhibit 3179. Do
14 you recognize that photograph?

15 A. Yes, I do.

16 Q. You had a close-up of the book before. Is that
17 this book right here?

18 A. Yes, it is.

19 Q. And then there were some other shots taken inside
20 of this closet?

21 A. Yes.

22 Q. I'm sure you will not want to hear this, but this
23 is the last stack, but we're going to go through them anyway.
24 I'm going to show you what has been marked as Exhibits 3190,
25 191, 192, 193, 194, 195, 196, 197, 198, and 214. And if you

1 will one more time, please. Okay?

2 A. Yes.

3 Q. And I see you've pulled a couple from that pile, a
4 couple of photographs?

5 A. Yes.

6 Q. And the reason being?

7 A. They both are similar to 197.

8 Q. I'm sorry, they are what?

9 A. They are both similar photographs to 197.

10 Q. Let me see that. 197 is similar to which --

11 A. Both of them.

12 Q. Does 197 have a scale in it?

13 A. No.

14 Q. Do you recognize those photographs?

15 A. Yes, I do.

16 Q. And how do you recognize them?

17 A. They are photographs that I took on July 3rd,
18 2008.

19 Q. And do the images in those photographs fairly and
20 accurately represent the objects that you were photographing
21 on July 3rd, 2008?

22 A. Yes, they do.

23 MR. PAUPORE: The State would move to offer
24 said exhibits into evidence.

25 THE COURT: Can I see them, Mr. Paupore?

1 (Brief pause.)

2 THE COURT: All right. Any objection?

3 MR. SEARS: Your Honor, if the witness could
4 be shown 3214.

5 And I have no objection to the remainder of
6 this group, your Honor.

7 THE COURT: 3191, 92, 93, 94, 95, 96, 97, and
8 3198 are admitted.

9
10 V O I R D I R E E X A M I N A T I O N

11 BY MR. SEARS:

12 Q. Ms. Daniel, is the doorknob in 3214 for
13 identification the same doorknob shown in other pictures we
14 looked at earlier today?

15 A. Yes. There's a scale across of it.

16 Q. So this is just a close-up?

17 A. Yes.

18 MR. SEARS: No objection.

19 THE COURT: 3214 is admitted.

20

21 D I R E C T E X A M I N A T I O N (Continued)

22 BY MR. PAUPORE:

23 Q. I'm go to show you 3214 on the screen.

24 A. It goes the other way.

25 Q. And that's the photograph of the -- of what?

1 A. The same doorknob that there was a photograph
2 earlier with a scale across it from the office to the
3 outside.

4 Q. I'm going to show you Exhibit 2531. Is that the
5 one you're talking about?

6 A. Yes.

7 Q. And again zoomed up -- the focus of this exhibit
8 again was for what purpose?

9 A. That reddish spot on the doorknob.

10 MR. PAUPORE: Thank you.

11 BY MR. PAUPORE:

12 Q. We're going to shift gears and go into your -- your
13 other -- your other duties and responsibilities in this case.
14 Are you ready?

15 A. Yes.

16 Q. Okay. Are you refocusing?

17 A. Okay.

18 Q. Okay. No more photographs for a little while.

19 Your other occupation at -- as a criminalist
20 at DPS lab is to look for, examine, and analyze fingerprints?

21 A. Correct.

22 Q. Tell us what you did in that regard in this case.
23 Because you were at the scene on July 3rd, 2008, part of
24 the purpose was to look for photographs -- fingerprints.

25 A. Correct.

1 Q. Tell us what you did.

2 A. I looked at the doorknob to see if I can find
3 prints off that. I used powder on it and I took two lifts
4 from the doorknob, but there wasn't any ridge detail. There
5 was no fingerprints of value. I also used powder on the
6 bookshelf that was to --

7 Q. Erin, let me stop you right there. I'm sorry.
8 What doorknob?

9 A. The one from the office to the outside.

10 Q. The one that we just saw with the scale?

11 A. I'm not sure if it's the same, the interior or
12 exterior of that, but it's the same door.

13 Q. It's the same door?

14 A. Yes.

15 Q. So you put powder on there. Did you look at that
16 with your flashlight?

17 A. I don't remember.

18 Q. Okay. Then did you find any -- any -- any
19 information from that doorknob that you could use for later
20 analysis as a fingerprint basis?

21 A. No, I didn't.

22 Q. Okay. So moving from the doorknob, where did you
23 go next?

24 A. I also looked at the bookshelf that was tipped
25 over. I used powder on the sides of it, and I was also not

1 able to find any fingerprints of value on the bookshelf.

2 Q. You actually put some powder on the bookshelf?

3 A. Yes, I did.

4 Q. Did that show up in one of the photographs?

5 A. Yes, it was in multiple photographs.

6 Q. Multiple photographs. But it was like a shading on
7 the side of the book -- bookshelf?

8 A. Correct. Yes.

9 Q. I think you said you noticed that with your
10 flashlight?

11 A. I don't remember, but I could have.

12 Q. Well, at least you thought that was going to be a
13 fingerprint?

14 A. I could see something on there. When I added the
15 powder, I could see it better.

16 Q. And after you added the powder, what -- powder,
17 what did you do next?

18 A. I just looked to see what was there and there
19 wasn't any ridge detail on it.

20 Q. So that's crossed off --

21 A. Yes.

22 Q. -- as far -- as far as having any evidentiary
23 value?

24 A. Yes.

25 Q. That was on the bookcase?

1 A. Yes.

2 Q. And do you know which of the two bookcases you did
3 this on?

4 A. It was the one that was tipped over in the middle
5 of the room.

6 Q. Okay. The one that we have seen in many pictures
7 that was kind of laying over --

8 A. Yes.

9 Q. -- crossways?

10 From there, what other -- what did you do
11 next?

12 A. The other item I looked at from the scene was the
13 ladder, the wooden ladder, and I used powder on that as well
14 and I also did not find any fingerprints on it.

15 Q. So you searched the ladder with or without your
16 flashlight looking for what appeared to you as fingerprints?

17 A. Right. I had put powder on the whole item.

18 Q. The whole item meaning both the treads and the
19 sides of the --

20 A. Yes.

21 Q. And you did not detect any -- any latent prints?

22 A. Correct.

23 Q. Okay. From going from the ladder, what did you do
24 next?

25 A. That was all that I powdered at the scene and all

1 that I examined for latent prints at the scene.

2 Q. At the scene. Besides all the photographs that we
3 went through and the three items that you just told us about,
4 what else did you do at the crime scene on July 3rd, 2008?

5 A. That was all that I did.

6 Q. That was it?

7 A. Yes.

8 Q. When's the next time you had involvement with this
9 case?

10 A. Once I go back to the lab, I write up my report on
11 the scene, save my photographs, and then also in this case, I
12 received items of evidence throughout the next two years.

13 Q. Well, let's start with the first one. Now, I --
14 you analyzed the -- what next in the lab in sequence?

15 A. I think the next report that I wrote was from a box
16 of trash bags.

17 Q. And would that be a cardboard box of Natural Value
18 Ecosafe tall kitchen bags?

19 A. Yes.

20 Q. And what did you analyze that for?

21 A. Also for fingerprints.

22 Q. And did you process it for latent prints?

23 A. Yes.

24 Q. Did you have any results?

25 A. I didn't have any ridge detail, any fingerprints of

1 value.

2 Q. No ridge detail? No fingerprints of value?

3 A. Correct.

4 Q. Can't match it to anybody?

5 A. Nothing on there.

6 Q. Okay. So then the next thing, did you look at some
7 GE light bulbs?

8 A. Yes, I did.

9 Q. And what did you do with the light bulbs?

10 A. I believe I had three light bulbs and I superglued
11 those like I talked about earlier in the superglue chamber
12 and also used powdered on them and made a few lifts.

13 Q. Now, there's three light bulbs so all of them are
14 identified separately?

15 A. Yes.

16 Q. Do you know what item numbers you were --

17 A. 802, 803, and I don't remember the other one.

18 Q. Do you have your actual file here?

19 A. Yes, I do.

20 Q. Would it help to refresh your recollection if you
21 looked at your report?

22 A. Yes, it would.

23 MR. PAUPORE: Your Honor, may the witness look
24 at her report to refresh her recollection?

25 THE COURT: Yes.

1 BY MR. PAUPORE:

2 Q. And as you look at it, Erin, look at it, refresh
3 your recollection, and do not read from it. Just put it back
4 where you found it.

5 A. So I had -- I did have three light bulbs, 800, 801,
6 and 803.

7 Q. 800, 801, and 803. And then you processed the
8 three light bulbs for latent prints?

9 A. Correct.

10 Q. And did you get any results?

11 A. Yes, I did. I was able to find a latent print of
12 value for comparison on light bulb item 803.

13 Q. So on 803 you found a print for comparison?

14 A. Correct.

15 Q. What does that mean?

16 A. It means there was enough there that I wanted to
17 compare it to anyone I had in this case.

18 Q. And anyone you had in this case means what?

19 A. At this time, it was Steven DeMocker. At later
20 times, I had prints of James Knapp and Virginia Kennedy.

21 Q. So you wanted to compare the results from 80 --
22 what number was that again?

23 A. 803.

24 Q. 803 with the -- with the known prints of Virginia
25 Kennedy, Steven DeMocker, and James Knapp?

1 A. That's correct.

2 Q. And did you -- did you make that comparison?

3 A. I did.

4 Q. And what was the results of the comparison?

5 A. The result of the comparison was that they were
6 inconclusive to all three of the people, which means there
7 wasn't enough information there for me to make a positive
8 identification and there also was not enough there for me to
9 be able to exclude one of those known so I wasn't able to
10 come to a conclusion.

11 Q. You just said a lot just now so let me just back
12 you up a little bit. It was inconclusive as to the three
13 named individuals that you had prints on?

14 A. Yes.

15 Q. Exclude, could you -- but you could not exclude
16 anybody?

17 A. That's correct.

18 Q. And what's the difference?

19 A. When I exclude someone, it would be -- I would be
20 able to say that a specific person did not make the
21 fingerprint in question. In this case -- in this particular
22 latent, I wasn't able to do that.

23 Q. And why is that?

24 A. There wasn't enough information in the fingerprint.
25 There wasn't enough there. It wasn't a very big print, and

1 the piece that I had is kind of a side of a finger. There
2 wasn't enough identifiable features in that.

3 Q. Were you able to -- when you get a latent like you
4 are talking about on 803, do you document it in some fashion?

5 A. Yes, I do.

6 Q. And what do you do?

7 A. In this case I lifted it from the actual light bulb
8 with the powder and then we have special lift tape that I put
9 on the item, lift the powder off, and then I save it on a
10 lift card.

11 Q. And then after you save it on a lift card, what
12 is -- what do you do with it next?

13 A. After I would make my comparisons. Once the part
14 of the case is over, it's saved as evidence in our files.

15 Q. And how is it saved?

16 A. We save it in an envelope and then that gets saved
17 into our file cabinet which has over 30 years of fingerprints
18 from different cases.

19 Q. So it's just one print is saved in your --

20 A. Any -- any lift that I take or photograph that I
21 take is saved as evidence in our files.

22 Q. So 803 has not enough detail. What kind of detail
23 are you talking about?

24 A. It's what I'm talking about ridge detail, which is
25 the little lines on your hand which is what we look at when

1 we look at fingerprints. Those individual lines are what we
2 use to make an identification so everything would have to
3 match to be able to make an ID. We look at where the lines
4 end and where they break into -- in the ridges, the
5 intervening ridges between points like that.

6 Q. Is there a photograph made of this card,
7 fingerprint card?

8 A. No.

9 Q. Just the card itself?

10 A. Correct.

11 Q. And so do you need a certain number of
12 characteristics of that finger -- of that fingerprint to be
13 able to draw any conclusions?

14 A. There's not a set number of points that we need to
15 have to make an identification, but we need to have enough
16 points to feel comfortable to be able to make an
17 identification or an exclusion.

18 Q. What is a point?

19 A. The points are often referred to as Galton details,
20 which are a bifurcation or a ridge ending or an island, which
21 is just fancy names for what the lines are doing on your
22 fingers.

23 Q. And so you had this partial -- is it fair to say
24 it's a partial print?

25 A. Yes.

1 Q. Is that a correct term?

2 A. Yes.

3 Q. On item 803, light bulb?

4 A. Yes.

5 Q. And you compared it to the three and you just did
6 not see enough comparison that you could make the call?

7 A. Correct.

8 Q. So you called it inconclusive?

9 A. Yes.

10 Q. What would it take to -- to make a call that it's
11 excluded?

12 A. I would have to see enough points there and in the
13 known person that I would be able to tell that there's no way
14 that person could have made that fingerprint.

15 Q. And did you look for ways to exclude Mr. DeMocker,
16 Virginia Carol Kennedy, and James Knapp?

17 A. Yes, I did.

18 Q. And there was no way you could make that call?

19 A. Correct.

20 Q. What are the three possible results that you could
21 come up with if you do a latent print analyst?

22 A. The three results that I could have of a comparison
23 are the identification, the exclusion, or an inconclusive.

24 Q. So we've got inconclusive on this one for the three
25 people?

1 A. Yes.

2 Q. So you've had -- you have the actual fingerprints
3 of Mr. DeMocker?

4 A. Yes.

5 Q. Same question for Virginia Carol Kennedy?

6 A. Yes.

7 Q. And James Knapp?

8 A. Yes.

9 Q. And then -- and how many fingerprints do you have
10 for each individual?

11 A. I have a 10 print card from each person, and I also
12 have major case prints, which are when the whole hand is
13 printed for Steven DeMocker and James Knapp.

14 Q. Okay. So you've got a 10 print card, one for each
15 finger for everybody, and then you said a whole case file?

16 A. Right. They're called major case prints, which
17 means that the ink prints are not just of this part of the
18 finger, but the whole finger and the whole palm.

19 Q. And you have that for Mr. DeMocker and Mr. Knapp?

20 A. Correct.

21 Q. And is there a reason why you didn't have it for
22 Carol Kennedy?

23 A. As far as I understand, she was not fingerprinted
24 by any part of outside entity before her death, and I also
25 understand that those prints were not taken after her death.

1 Q. Is there a special way you take a finger -- get
2 someone's fingerprints?

3 A. Yes.

4 Q. Do you know how to do it?

5 A. Yes.

6 Q. Have you done it?

7 A. I have on many live people and one dead person.

8 Q. Let's talk about a live person. How do you take
9 someone's fingerprints when you need to take the whole hand?

10 A. We have kind of a kit that we use and we have
11 special ink that is good for taking fingerprints. Someone
12 would have to roll your fingers. Each finger is rolled on
13 the ink and then also rolled on the card. So we have
14 actually a regular 10 print card. And then at the bottom of
15 a 10 print card, there's a plane impression, which is all
16 four fingers pressed down together, and that's a 10 print
17 card.

18 On a major case print card, you're going to
19 have tips of the finger, which can be rolled, and also this
20 part of the finger along with the whole palm.

21 Q. And why do you have so many prints of a person,
22 just tips and the palms? Why is that?

23 A. We want to have the best known standards that we
24 can. We never know what we're going to end up with. Like on
25 a side wall, I think it's the side of a finger, so I would

1 need the whole finger to be rolled to be able to see
2 everyone's side of their finger.

3 Q. Did you have -- you had this -- the whole fingers I
4 guess is how you say that for Mr. DeMocker?

5 A. Yes.

6 Q. Same question for Mr. Knapp?

7 A. Yes.

8 Q. Same question for Virginia Kennedy?

9 A. I did not.

10 Q. What did you have?

11 A. They were mostly plane impressions, which means
12 whoever took the prints pretty much put her hands flat
13 instead of a 10 print card where they're rolled so you get a
14 nail-to-nail impression of someone's fingerprint.

15 Q. Do you have your entire file with you?

16 A. Yes, I do.

17 Q. Do you have the actual fingerprint card for Carol
18 Kennedy with you?

19 A. Yes, I do.

20 Q. Would you pull it out, please.

21 MR. PAUPORE: May I approach, your Honor?

22 THE COURT: Yes, you may.

23 MR. PAUPORE: One moment.

24 (Brief pause.)

25 (Next page, please.)

1 BY MR. PAUPORE:

2 Q. While she's making an exhibit tag for that, Erin,
3 where did that come from?

4 A. I got that via inner-office mail from our DPS
5 fingerprint records down in Phoenix.

6 Q. So you didn't get that from YCSO?

7 A. Correct.

8 Q. But you got it from where?

9 A. From DPS, Department of Public Safety, fingerprint
10 records down in Phoenix.

11 Q. And the DPS fingerprint records in Phoenix, what --
12 what do they do there?

13 A. They are the ones that are in charge of the
14 criminal history records. They keep all that information.
15 People that have been arrested have fingerprint cards there.
16 And I believe they also process deceased people in their
17 files.

18 Q. And is that -- what you receive from DPS
19 fingerprint lab, is that their official record, if you know?

20 A. I don't know.

21 Q. What other record would it be of?

22 A. I don't know.

23 Q. Do you know where the fingerprint card --
24 fingerprints came from?

25 A. That has a sticker from the Yavapai County Medical

1 Examiner's Office.

2 Q. So you did not get it from the Medical Examiner's
3 Office?

4 A. Correct.

5 Q. But you got it from the Arizona Department of
6 Fingerprint Bureau?

7 A. Yes.

8 Q. And is that -- is this -- when you get a
9 fingerprint card from the Arizona Fingerprint Bureau, is that
10 a record that you rely on in your course of examinations?

11 A. Yes, it is.

12 MR. PAUPORE: The State would move to offer
13 Exhibit 3216 into evidence.

14 MR. SEARS: Voir dire, your Honor? Can the
15 witness have that exhibit to look at?

16 THE COURT: Yes.

17 MR. SEARS: Thank you, your Honor.

18

19 V O I R D I R E E X A M I N A T I O N

20 BY MR. SEARS:

21 Q. And -- and you were saying that via the regional
22 crime lab you acquired that exhibit, Ms. Daniel, from the
23 Department of Public Safety; is that right?

24 A. Right, which I also worked for the Department of
25 Public Safety, but it's a different section. It's not

1 affiliated with the crime lab.

2 Q. Right. And so you made some inquiries to see if
3 there were any fingerprints on file for Carol Kennedy?

4 A. That's correct.

5 Q. This is what you got?

6 A. Correct.

7 Q. Okay. Now, your -- you say that that card you have
8 in your hand is problematic for your work because the prints
9 are not rolled; is that right?

10 A. Correct. They're not rolled and they're of poor
11 quality as well.

12 Q. And it says -- there's a notation on -- I think it
13 might be on the reverse side of that.

14 THE COURT: One second, Mr. Sears.

15 (Brief pause.)

16 THE COURT: Please start your question again.

17 MR. SEARS: Thank you, your Honor.

18 BY MR. SEARS:

19 Q. Let's back up. I think there's a notation on that
20 exhibit, Ms. Daniel, that indicates that the subject is
21 deceased.

22 A. Correct.

23 Q. Okay. The fact that it comes from the Medical
24 Examiner's Office is another clue; correct?

25 A. Yes.

1 Q. Okay. And from time to time in your work as a
2 fingerprint examiner, have you gotten 10 print cards from
3 sources where they obviously had been collected at an
4 autopsy?

5 A. Yes, I have.

6 Q. Have you ever gotten anything from Yavapai County
7 that you can recall from cases other than this one?

8 A. Not off the top of my head that I can remember.

9 Q. Okay. Can you tell as you look at that card though
10 what individual actually was responsible for obtaining the
11 prints of Ms. Kennedy that appear on that card?

12 A. No, I can't.

13 Q. Okay. So you don't know whether it was the medical
14 examiner himself or a police officer or the medical
15 examiner's assistant? You just don't know?

16 A. Correct.

17 Q. Okay. The problem for you is they're of poor
18 quality and that fact impacted your work in this case; right?

19 A. Yes, it did.

20 Q. And, in fact, you said apparently that when you got
21 to the inconclusive results from the light bulb, I think you
22 said that part of it was just a poor quality of the latent
23 lift off the light bulb; right?

24 A. Right. The latent itself doesn't have many points
25 in it.

1 Q. Okay. And then you were trying to compare it to
2 those poor quality prints there; is that right?

3 A. That's correct.

4 MR. SEARS: Your Honor, I'm not sure that this
5 witness can lay foundation for that record. Unfortunately,
6 it might require another visit by Dr. Keen unless the State
7 is able to ascertain at some point how those prints were
8 attained, whether it was from a police officer at the autopsy
9 or the medical examiner or his assistant. I just don't think
10 this witness can lay this foundation. I don't think she has
11 told us that she knows for a fact that it's the official
12 record of the Department of Public Safety.

13 THE COURT: Response, Mr. Paupore?

14 MR. PAUPORE: May I see that?

15 On the back of this exhibit -- your Honor, I
16 believe this is a -- this would qualify as a foundation
17 purposes as a business record for the Department of Public
18 Safety. It's a -- it's an original -- original card
19 identifies Virginia Carol Kennedy as the name, social
20 security number, date of birth. It's a 10 print card. It
21 has on the back of it a sticker from the Yavapai County
22 Medical Examiner. Ms. Daniel requested this from DPS who she
23 works for and she does it on a regular basis. It's for print
24 cards from -- from her agency, and she uses it in her work.
25 I think there's sufficient foundation for this witness --

1 from this witness to get this fingerprint card admitted.

2 THE COURT: And I don't see all of the factors
3 for 803(6) so at this point sustained on foundation, but I
4 understand you're offering it under 803(6), I believe.

5 MR. PAUPORE: Yes, your Honor.

6

7 D I R E C T E X A M I N A T I O N (Continued)

8 BY MR. PAUPORE:

9 Q. And, Ms. Daniel, I guess I can ask you this
10 question. Have you ever worked for the -- this came from
11 where exactly in DPS?

12 A. It's the fingerprint unit.

13 Q. It's the fingerprint unit. Do you know how they
14 work?

15 A. I don't.

16 Q. And you don't know how they keep their records?

17 A. I don't.

18 Q. Okay. But you just know that you relied on this
19 record when you made your comparisons?

20 A. Correct. And that was scanned into a database, and
21 I've also accessed that database for a copy of that.

22 Q. What database was it scanned into?

23 A. It goes into our OPIIS. It's called Optical Photo
24 Imprint Imaging Subsystem.

25 Q. And why is it -- why is it scanned into that OPIIS?

1 A. Again, I don't know their practices, but I was able
2 to search for her name and I was able to print out an
3 electronic copy of that fingerprint card.

4 Q. And did you do that for your -- for your files?

5 A. Yes.

6 Q. So you -- not only do you have the original, you've
7 got a copy?

8 A. Correct, the electronic copy.

9 Q. Electronic copy. Are the fingerprint cards that
10 you -- that I'm holding in my hand, are they used and relied
11 upon in your ordinary course of business?

12 A. Yes, they are.

13 Q. And when you get such a record, does it become part
14 of your official file?

15 A. Yes, it does.

16 Q. And then other people can look at it and rely upon
17 it as being an accurate record for the file?

18 A. Yes.

19 Q. Is there any difference between this actual
20 original card that I'm holding in my hand and the electronic
21 copy that you downloaded from OPIIS?

22 A. No.

23 Q. OPIIS, who -- what is OPIIS again?

24 A. It's also part of our AFIS, our database where we
25 can search our automatic fingerprint identification system so

1 anyone who's fingerprinted in the state gets entered into
2 OPIIS as a known person and also into our AFIS database where
3 they can be searched against. So anyone that's been arrested
4 and fingerprinted, some teachers, some of the law
5 enforcement, people like that, I can print their cards off of
6 OPIIS.

7 Q. And so is -- how accurate must the information be
8 to be loaded into OPIIS?

9 A. They would have to be accurate.

10 Q. And so a copy -- electronic copy from OPIIS that
11 you receive, did you look at your copy -- electronic copy
12 from OPIIS and compare it with the card that you received
13 from your agency?

14 A. I did. I could tell it was the electronic version
15 of that same card.

16 Q. So somebody had to make the determination in
17 Arizona DPS that this was an accurate fingerprint card enough
18 to be loaded onto their database?

19 A. Right.

20 MR. SEARS: Leading. Foundation.

21 THE COURT: Sustained.

22 MR. SEARS: If there was an answer, I move to
23 strike, your Honor.

24 THE COURT: I think there was and so just that
25 very last answer is stricken.

1 MR. PAUPORE: Your Honor, I believe this
2 satisfies the foundation requirements. The witness has
3 testified as to where she had electronic copy of this. It's
4 loaded onto the Arizona fingerprint identification data bank.
5 She received one into her file and compared it with this
6 file. This actual card, it's exactly the same one. If -- if
7 this is part of her -- this is part of her business file and
8 business record in this case. It does meet the requirements
9 of 806.

10 THE COURT: Mr. Sears?

11 MR. SEARS: Your Honor, I think in order for
12 there to be foundation for that card and for that to be
13 represented to be the fingerprints of Carol Kennedy, the
14 foundation has to include some understanding of by whom and
15 under what circumstances those prints were obtained. The
16 mere logging of that document into the system doesn't vouch
17 for its authenticity despite questions of counsel.

18 THE COURT: Sustained on foundation.

19 BY MR. PAUPORE:

20 Q. Nevertheless, you -- you used that information from
21 that card to draw your conclusions in this case?

22 A. Yes, I did.

23 Q. And moving from item 803, light bulb, what was the
24 next item in line that you -- that you examined?

25 A. Also in with this with the light bulbs, I also had

1 a doorknob assembly.

2 Q. Doorknob. Couldn't be the one that we saw on the
3 screen a couple times today, could it be?

4 A. I don't know.

5 Q. Does it have an item number on it?

6 A. 804.

7 Q. 804. Where did you get 804 from?

8 A. I receive our evidence from our property and
9 evidence unit.

10 Q. Okay. And what did you do with item 804, doorknob?

11 A. I also superglued it.

12 Q. You superglued it?

13 A. Yes.

14 Q. Looking for prints?

15 A. Correct.

16 Q. And after you superglued it, what did you do?

17 A. I would have to look at my notes.

18 Q. To help you refresh your recollection?

19 A. Yes.

20 Q. Would you please.

21 A. I only superglued that item, and there were no
22 fingerprints of value on the deadbolt lock assembly.

23 Q. So you didn't do anything with that particular
24 item?

25 A. I superglued it, but there was no fingerprints on

1 it.

2 Q. You couldn't analyze it for latents?

3 A. I did, but there wasn't anything there.

4 Q. Okay. You did analyze it, but you found nothing?

5 A. Correct.

6 Q. Couldn't compare it to anything?

7 A. Correct.

8 Q. And you indicated earlier that doorknobs are not
9 the easiest objects to get a good readable latent print from?

10 A. That's correct.

11 Q. Okay. What else did you look for -- that you
12 looked for latent prints on?

13 A. I'd have to take out my next report.

14 Q. Okay.

15 A. Item 507 was the VTech cordless phone handset. And
16 item 852, I had --

17 Q. So let's do the handset, number 507. We saw a
18 picture of that earlier that you took. Is that the same
19 phone?

20 A. Yes, it is.

21 Q. What were you able to do with the item 507 VTech
22 cordless phone?

23 A. I also superglued the item, and I was not -- I did
24 not develop any fingerprints of value.

25 Q. So nothing?

1 A. Nothing.

2 Q. No evidentiary value recovered from the item 507?

3 A. Correct.

4 Q. Moving on. Next you said 852?

5 A. Correct.

6 Q. What is -- what was contained in item number 852?

7 A. 852 I had six pages of handwritten notes and then
8 with two smaller pages and they were all stapled together.

9 Q. And what kind of tests did you run on 852?

10 A. I used a chemical called ninhydrin on the paper
11 which I talked about before which turns fingerprints purple.

12 Q. And were you able to get purple prints?

13 A. I was.

14 Q. You were? You did?

15 A. Yes.

16 Q. Tell us what you found.

17 A. If I could also refer to my notes.

18 Q. To refresh your recollection?

19 A. Yes.

20 Q. Have you looked -- have you had enough time to
21 refresh your recollection?

22 A. Yes, I have.

23 Q. And what item -- now, we're talking about item 852
24 and these are some pages?

25 A. Correct.

1 Q. What did you do?

2 A. After I used the ninhydrin, I took some photographs
3 of fingerprints that I found on that item and looked at them
4 and I determined I had four latent prints of value.

5 Q. And with the four latent prints of value meaning
6 what? What does value mean?

7 A. It means there was enough information there that I
8 wanted to compare it to the known standards in this case.

9 Q. And we already talked about the known standards?

10 A. Yes.

11 Q. So did you make the comparison with each of the
12 four latents that you recovered from item 802?

13 A. 852, yes.

14 Q. 852, excuse me.

15 A. Yes, I did.

16 Q. And what were your results?

17 A. One latent was inconclusive to Carol Kennedy, and I
18 excluded DeMocker and Knapp. Another latent was inconclusive
19 to Kennedy, and I excluded DeMocker and Knapp. One latent I
20 excluded Kennedy, DeMocker, and Knapp. And the fourth one
21 was also inconclusive to Kennedy, and I excluded DeMocker and
22 Knapp.

23 Q. So of the four latents, you received the value I
24 see three inconclusive results as to Virginia Carol Kennedy?

25 A. Correct.

1 Q. And I see exclusions -- your results were
2 exclusions for Mr. DeMocker and Mr. Knapp?

3 A. Correct.

4 Q. The inconclusives for Virginia Carol Kennedy was
5 the result of the latent print, the print card that we talked
6 about earlier, or was it the result of something else?

7 A. They were the result of the -- the poor quality
8 standard from Carol Kennedy. On two of those from what I can
9 tell, it looks like they may belong to her, but there wasn't
10 enough that I could say for sure so that's why I had an
11 inconclusive result on three of those latent prints to Carol
12 Kennedy.

13 Q. You were able to exclude everybody of the knowns on
14 at least one of the latents?

15 A. Yes.

16 Q. So there was enough information on the known
17 fingerprints to be able to make that call?

18 A. Yes.

19 Q. And the inconclusives you attributed to the quality
20 of the print that you received of Virginia Carol Kennedy to
21 make the comparison with?

22 A. Yes.

23 Q. And what kind of documents were you -- were you
24 looking at?

25 A. These looked like financial records with

1 handwritten notes on them.

2 Q. And where did you receive this evidence from?

3 A. I received all of our evidence from our property
4 and evidence unit.

5 Q. Do you know where they got it from?

6 A. I don't.

7 Q. Do you have anything in your file to tell you where
8 the item 852 originated from?

9 A. I have a chain of custody that is signed by people
10 before I received it.

11 Q. You -- your involvement is from the evidence locker
12 to your -- to your desk?

13 A. It's from an evidence technician to me.

14 Q. Technician.

15 MR. PAUPORE: Your Honor, this probably would
16 be a good time for our afternoon break.

17 THE COURT: Okay. Thank you.

18 Ladies and gentlemen, we'll take the afternoon
19 recess. Please remember the admonition, and please be ready
20 to resume at 3:20. And we'll be in recess. Thank you.

21 (Recess from 2:59 p.m. to 3:27 p.m.)

22 THE COURT: Please be seated.

23 The record will show the presence of the
24 defendant, all of the attorneys, and the jury. The witness,
25 Ms. Daniel, has returned to the witness stand.

1 Mr. Paupore.

2 MR. PAUPORE: Thank you, your Honor.

3 BY MR. PAUPORE:

4 Q. We were talking about evidence item 902, and you
5 were doing some analysis to look for latents on it.

6 A. Item 852, yes.

7 Q. 852. Thank you. And I appreciate your help
8 throughout the day.

9 MR. PAUPORE: May I approach, your Honor?

10 THE COURT: Yes.

11 BY MR. PAUPORE:

12 Q. I'm going to ask you to look at what's been marked
13 as Exhibit 3222 and ask you if you've ever seen that document
14 before?

15 A. Yes, I have.

16 Q. Is that the document that you were referring to as
17 evidence item 852?

18 A. Yes, it is.

19 Q. And you did some fingerprint analysis on that
20 document?

21 A. Yes.

22 Q. And we know where you got it from. You got it from
23 evidence.

24 A. Correct.

25 Q. Okay. How do you know that that is a document that

1 you worked on and labeled as item 852?

2 A. It has my initials on it and the date that I
3 analyzed it. I also wrote number 852 and our DPS DR number
4 for this case on this item.

5 Q. Is that what you do on all to keep track of
6 evidence when you are analyzing it?

7 A. Yes. At least my initials and the date are written
8 on the items of evidence, if possible.

9 Q. But in this case, you have item 852. That's not a
10 DPS number, is it?

11 A. The DPS what we call the DR number is the DR number
12 for the whole case.

13 Q. And that's marked on Exhibit 3222?

14 A. Yes.

15 Q. Tell us what you did when you -- when you began to
16 analyze Exhibit 3222.

17 A. So as I was talking about before, I use a chemical
18 called ninhydrin on these items which turns any fingerprints
19 on the paper purple. So after I spray that on as a reagent,
20 spray it on, and then I use an iron that heats -- a steam
21 iron to add some humidity to make the reaction happen. And
22 then once I see fingerprints develop, I photograph those
23 fingerprints.

24 Once I determine if they are of value, then I
25 can compare them to the three known standards that I had in

1 this case. And I previously told you I had four latent
2 prints of this item of value and the results of that
3 comparison.

4 Q. Right. And we went through that and -- and quick
5 summary is Mr. DeMocker and Mr. James Knapp were completely
6 excluded from the four latents of value you discovered?

7 A. Yes.

8 Q. You had one latent that you couldn't -- you
9 couldn't exclude or -- or you couldn't identify?

10 A. Correct. I have one latent that I excluded
11 Kennedy, DeMocker, and Knapp from.

12 Q. Well, let's talk about that one latent. Where did
13 you find that latent on that document Exhibit 3222?

14 MR. SEARS: Your Honor, the witness is now
15 reading from -- he asked to testify from a document not in
16 evidence.

17 MR. PAUPORE: Your Honor, the witness is --
18 I'm asking the witness to identify fingerprints that she
19 found on that document, not to testify from the document.
20 This is her work looking for latents.

21 THE COURT: Okay. State your question again,
22 Mr. Paupore.

23 BY MR. PAUPORE:

24 Q. What page did you find the latent print that
25 excluded Mr. Knapp, Mr. DeMocker, and Mrs. Kennedy?

1 A. I think these are stapled in a different order than
2 I received them, but it's on this piece of paper right here.

3 Q. Okay. Is there a way to identify the paper without
4 giving away the contents?

5 A. It's on the third page of this stapled packet,
6 third full page.

7 Q. Okay. So on Exhibit 3222, it's on the third full
8 page counting from the front?

9 A. Correct.

10 Q. How many total pages are -- are stapled together?

11 A. I have six large pages and two small pages on the
12 front.

13 Q. Okay. So six large and two small like notes?

14 A. Correct.

15 Q. And going to the third page, you were able to
16 detect a latent print of value?

17 A. Yes.

18 Q. What -- what did you do after you detected that
19 print that you determined it had value?

20 A. I photographed the print and then I compared that
21 print to known print cards of Kennedy, DeMocker, and Knapp.

22 Q. And the results were everybody was excluded?

23 A. Correct.

24 Q. So what happens to that print? Is there something
25 that you do with it at that point?

1 A. In this case I searched that print in AFIS, which I
2 mentioned a little bit before which is our state automated
3 fingerprint identification program. So I take my photograph,
4 I scan it in the computer, I mark it up for the points that I
5 want the computer to look for it, and then it runs a search
6 for everyone in our database.

7 Q. Now, that database geographically goes where?

8 A. That's the state of Arizona.

9 Q. Arizona -- Arizona only?

10 A. Yes.

11 Q. So you submitted that for -- there's four of them.
12 Are they identified like A, B, C, D or how do you distinguish
13 one from the other?

14 A. I used the number of the photographs that they were
15 on.

16 Q. Okay. So whatever photograph it was -- what
17 photograph -- do you remember the number on this one?

18 A. I would have to look at my notes.

19 Q. But you took a photograph, and from that
20 photograph, that's the information that you submitted to the
21 Arizona AFIS?

22 A. Correct.

23 Q. And that's the fingerprint identification system?

24 A. Yes.

25 Q. Why did you do that?

1 A. Because it was unidentified in this case. I
2 searched it in the database.

3 Q. And after -- did you get a -- did you get a result
4 from that search?

5 A. Yes. Every time I do a search, I tell the computer
6 how many candidates I want back. I usually do 15 candidates.
7 So the computer every single time I search something will
8 come back with 15 candidates. It's up to me to look at each
9 of those to determine if there's a match or not. And in this
10 case, I did not get a match to that database search.

11 Q. Did you get 15 responses?

12 A. I did.

13 Q. Are they also like a photograph?

14 A. They're finger -- known fingerprints from the AFIS
15 system.

16 Q. Known fingerprints. This is a single fingerprint?

17 A. Yes.

18 Q. Can you -- were you able to determine which digit
19 it came from?

20 A. It's a right slope loop which most usually happens
21 on the right hand and sometimes on the left index finger, so
22 I can narrow it down to possibilities, but that doesn't mean
23 it still could have come from any finger.

24 Q. But you think it came from an index finger?

25 A. Either -- any -- any finger from the right hand or

1 a left index finger.

2 Q. And 15 results or replies that you got back when
3 you checked with the Arizona AFIS resulted in what?

4 A. No match. No hit in the database. They were not
5 made by the person who made this print.

6 Q. So the item that we're talking about that's located
7 on page 3, is there anything else that you could do with that
8 information?

9 A. It stays in the database for a continual search.
10 So anytime a new person is entered into the known database,
11 it's searched against my -- my unsolved latent. Also if
12 anyone else -- if any other known fingerprints were submitted
13 in the case, then I could compare it to other people in the
14 case.

15 Q. Has that happened in this case?

16 A. No, it hasn't.

17 Q. Okay. And how large is this database?

18 A. I don't know the number. It's everyone that's been
19 arrested in the state of Arizona along with some civilian
20 records such as law enforcement, teachers, things like that.

21 Q. You used to have to get fingerprinted for a
22 concealed weapon. Would that go in that system?

23 A. I'm not sure if those are in there. I know they're
24 searched in the database and they go to the FBI, but I don't
25 know if they stay in the state database.

1 Q. So you don't have any really background as to the
2 quantity or how large the database is?

3 A. I don't know.

4 Q. Do you check it from time to time to see if your
5 latent comes back to anybody?

6 A. Anytime that it has a potential of something that
7 it wants to show me, the computer tells me that it -- it
8 shows it to me and this latent has come back a few times, but
9 it hasn't matched anyone.

10 Q. So they'll send you what, 15 responses each time?

11 A. No, just the new one that it wants me to look at.

12 Q. Okay. So you're still looking?

13 A. Yes.

14 Q. The other -- now, you've excluded Mr. DeMocker and
15 Mr. Knapp on three other latents --

16 A. Yes.

17 Q. -- on Exhibit 3222?

18 A. Yes.

19 Q. What -- let's go to number -- take them in order as
20 you -- as you found the latents after you sprayed it and you
21 steamed it. That's probably not technical terms. But you
22 found a latent. What did you do when you found the next
23 latent?

24 A. Same thing. I photograph everything that I see on
25 the paper. And then once I have all my photographs, then I

1 do all my comparisons at the same time so I would be doing
2 these comparisons at the same time.

3 Q. Okay. So you do all the searching for latents as
4 one step. Second step is photographing. Third step is?

5 A. Comparison.

6 Q. Comparison. Fourth step is the AFIS?

7 A. If needed, yes.

8 Q. If needed. Is there a fifth step?

9 A. Nope. Not unless I receive more known standards to
10 compare it to.

11 Q. Okay. And you have not in this case you said?

12 A. Correct.

13 Q. Okay. So what fingerprints did you find -- well,
14 what fingerprints did you compare with Mr. Knapp and
15 Mr. DeMocker on Exhibit 3222 besides the one we just talked
16 about?

17 A. I would have to get my photographs out.

18 Q. Would that help you refresh your recollection as to
19 what -- to answer that question?

20 A. Yes.

21 Q. Okay. Remember the rule. You can't read from it.

22 A. I have a photograph on the bottom of page 6.
23 Excuse me, a latent that I photographed.

24 Q. Okay.

25 MR. SEARS: Your Honor, may I take a look at

1 what the witness used to refresh her recollection?

2 THE COURT: Yes, you may.

3 MR. SEARS: Thank you, your Honor. The
4 exhibit.

5 THE COURT: Mr. Sears, at the table or if you
6 care to step up, either way.

7 MR. SEARS: Thank you, your Honor.

8 (Brief pause.)

9 MR. SEARS: This is evidence item number what,
10 your Honor?

11 MR. PAUPORE: 3222.

12 MR. SEARS: That's the exhibit number.

13 MR. PAUPORE: 852.

14 MR. SEARS: This is 852.

15 THE COURT: Yes.

16 MR. SEARS: I'm done with this exhibit, your
17 Honor.

18 THE COURT: Okay.

19 MR. SEARS: Thank you.

20 BY MR. PAUPORE:

21 Q. Do you remember what page you were talking about?

22 A. In this packet, it's page 6.

23 Q. Page 6. And you discovered a latent on page 6 of
24 Exhibit 3222?

25 A. Yes.

1 Q. You then photographed it?

2 A. Yes.

3 Q. What did you do next?

4 A. Then I compared it to the three known standards
5 that I have in the case.

6 Q. And it came back excluding Mr. DeMocker and
7 Mr. Knapp?

8 A. Correct.

9 Q. And as to Ms. Kennedy?

10 A. It was inconclusive.

11 Q. Inconclusive.

12 Take the next latent that you located.

13 MR. SEARS: Your Honor, if we could have a bit
14 more foundation as to where these documents were discovered.
15 There's some confusion here between some documents that were
16 in a magazine and some other documents that were stapled. If
17 we could get a bit more foundation, that would be helpful to
18 us. And I'm talking about Exhibit -- I'm sorry -- evidence
19 item 852, which is Exhibit 3222 for identification.

20 THE COURT: Can I see Exhibit 3222?

21 MR. PAUPORE: Yes.

22 (Brief pause.)

23 THE COURT: Mr. Paupore?

24 MR. PAUPORE: Your Honor, the foundation that
25 I asked of this witness was -- basically she told us she got

1 it from the evidence tech, and I don't think she can add any
2 more than that.

3 THE COURT: Okay.

4 MR. PAUPORE: We -- would anticipate linking
5 up the document itself later on. My purpose for her today
6 was to just describe what she did with the document and what
7 her results were and link it -- and link it up later in the
8 case. So I won't be -- I won't be admitting the document.

9 THE COURT: There was not actually an
10 objection stated. You may continue, Mr. Paupore.

11 MR. PAUPORE: I think Mr. Sears would object
12 to foundation and I would have to agree with that because I'm
13 not -- I tried to establish foundation and we got as far as
14 we got.

15 MR. SEARS: But am I understanding that this
16 witness is unable to say where this document was seized? She
17 simply was sent this document by the Sheriff's Department out
18 of their evidence in this case; is that correct?

19 MR. PAUPORE: Yes.

20 THE COURT: I think that's what Mr. Paupore is
21 stating right now.

22 MR. SEARS: And it would appear from her notes
23 that that happened sometime in September of 2008? Can we see
24 if I'm looking at the right documents?

25 THE COURT: Would you just like to ask her

1 voir dire questions?

2 MR. SEARS: Perhaps, your Honor.

3 THE COURT: Okay. You can do that.

4

5 V O I R D I R E E X A M I N A T I O N

6 BY MR. SEARS:

7 Q. Ms. Daniel, if you have in front of you what has
8 been marked as --

9 MR. SEARS: Is it 3222, your Honor?

10 THE COURT: Yes.

11 BY MR. SEARS:

12 Q. 3222 for identification, which are these
13 handwritten pages that we've been talking about right here.
14 Am I right in understanding other than it came from the
15 Sheriff's Department, you don't know where this document was
16 located when it was taken into evidence; is that right?

17 A. Correct.

18 Q. You didn't see it on July 3, 2008 at the crime
19 scene?

20 A. Correct.

21 Q. And you've not been told where it came from?

22 A. Correct.

23 Q. Okay. And you told us now that you found four --
24 four latents of value on all these pages and the total number
25 of pages that I have, they're not numbered, but it's one,

1 two, three, four, five, six, seven, eight, nine, 10, I have
2 11 pages.

3 A. There's six. I assume maybe you have a copy of the
4 front and the back.

5 Q. Possibly. Possibly. I don't know. And you said
6 that the documents you have is stapled together differently
7 than the document that you looked at when it came from the
8 Sheriff's Office?

9 A. I think so, yes.

10 Q. Okay. But you're using page numbers, but these
11 pages aren't numbered, are they?

12 A. I'm using the page number as it exists right now.

13 Q. Okay. Could you tell me quickly the -- some
14 identifying writing or something on the pages where you found
15 the four latents of value?

16 A. We've only talked about the first one.

17 Q. Okay.

18 A. The first one is on what I have as page 3. It
19 starts with something making on the top, 325.

20 MR. SEARS: Your Honor, could I approach the
21 witness?

22 THE COURT: Yes, you may.

23 BY MR. SEARS:

24 Q. I'm sorry. Would you show me, please, where you
25 found the first one?

1 A. See, that's how -- I think I had the first page,
2 but now it's this way.

3 Q. You know, here's the problem, your Honor, I
4 think -- is it this one? Okay. So this is the last page I
5 have. So this is the first one you're describing?

6 A. Right.

7 Q. Okay. And then can you show me quickly where the
8 next three are?

9 A. I think that's one of them. This one we talked
10 about was on your second page maybe. This -- it's right
11 here.

12 Q. Okay.

13 A. I talked about that one.

14 Q. That's the second one?

15 A. Yes.

16 Q. Okay. And the third one?

17 A. The third one front of page 6, your page, the one
18 that had the other one on it. That's this one.

19 Q. Is that the fourth one?

20 A. Yes.

21 Q. So we're still looking for the third one. So the
22 first one and the fourth one are on this page; is that right?

23 A. Yes.

24 Q. And the second one is here?

25 A. Yes.

1 Q. Okay. So we're looking for the third one.

2 A. Yes. I think it's that one. Yeah, that's why I
3 can't find it.

4 MR. SEARS: Thank you, your Honor. Thank you,
5 Ms. Daniel.

6 THE COURT: Yes.

7 Mr. Paupore, you may continue.

8

9 D I R E C T E X A M I N A T I O N (Continued)

10 BY MR. PAUPORE:

11 Q. I think we got through three of the four.

12 A. I think -- or two.

13 Q. Two. Okay. Let's go to number three. Well, the
14 second one was inconclusive as to Virginia Carol Kennedy?

15 A. Yes.

16 Q. Okay. Let's go to the next one where it
17 excludes -- the next one in that document 3222. What page is
18 number -- is the third latent that you discovered on?

19 A. As it is right now, it's the back of page 3.

20 Q. Okay. And what -- after you photographed it, did
21 you compare it?

22 A. Yes, I did.

23 Q. And the comparison was?

24 A. It was inconclusive as to Kennedy and excluded
25 DeMocker and Knapp.

1 Q. Let's jump to the last one so we can take care of
2 this document.

3 A. Page 3 as it is now.

4 Q. Okay.

5 A. It was also inconclusive to Kennedy, and I excluded
6 DeMocker and Knapp.

7 Q. So -- and the only photograph that really of value
8 that you had is you sent that off to AFIS and Arizona AFIS?

9 A. That was the only one that was unidentified.

10 Q. Only one unidentified. Did you send the rest of
11 the photographs, the rest of the prints?

12 A. No.

13 Q. They had value?

14 A. Yes, they did. As far as I could tell with the
15 poor quality of Kennedy's prints, they most likely belonged
16 to Kennedy.

17 Q. Okay. I want to, Erin, direct your attention back
18 to Exhibit 3032 which has been admitted into evidence. And
19 this is a photograph that you took?

20 A. Yes, it is.

21 Q. And directing your attention to the -- to that
22 magazine. Do you recognize that magazine?

23 A. Yes, I do.

24 Q. And how do you recognize it?

25 A. I received that item later in the laboratory and I

1 analyzed it for fingerprints along with some papers that were
2 with it.

3 MR. PAUPORE: Your Honor, may I approach?

4 THE COURT: Yes.

5 BY MR. PAUPORE:

6 Q. I show you what's been marked Exhibit 3201.

7 I'm going to show it to Mr. Sears.

8 I'm going to ask you to identify that item.

9 A. This is item 902 that I received at the lab.

10 Q. And that's a magazine that has some papers
11 contained in it?

12 A. Correct.

13 Q. That's the same item that's in the overhead marked
14 as Exhibit -- photograph Exhibit 3032?

15 A. Yes, it's the same magazine.

16 Q. And you actually took that photograph?

17 A. Yes, I did.

18 Q. So you recognize that as coming from Carol
19 Kennedy's house on Bridle Path?

20 A. Yes, I do.

21 Q. So when you went to the evidence tech and you got
22 that item, you probably thought, voilà, I know what this is?

23 A. Maybe.

24 Q. When you did get the item tell us -- tell us what
25 you did.

1 A. I superglued the magazine. Because it has a glossy
2 surface, I superglued it, and then the other papers I used
3 the same chemical, I used ninhydrin to look for fingerprints
4 on the paper.

5 Q. That's that purple spray stuff?

6 A. Yes.

7 Q. Then you took the steamer?

8 A. Yes.

9 Q. What did you find off the magazine?

10 A. The magazine itself, I didn't find any fingerprints
11 of value.

12 Q. Did you look through every single page?

13 A. I don't think that I did.

14 Q. That would take a long time, wouldn't it?

15 A. Yes.

16 Q. So what did you search for latents on the magazine
17 itself?

18 A. The exterior part of the magazine and it also had
19 two paper inserts in the magazine.

20 Q. That came with the magazine?

21 A. Yes.

22 Q. Nothing on -- nothing on the cover of the magazine?

23 A. Correct.

24 Q. What about the documents on the inside?

25 A. I did find latent prints of value on those

1 documents.

2 Q. And how many -- how many pages did you find that
3 were inside that magazine, not counting the inserts from the
4 publisher?

5 A. The -- the pages that I had, I had five pages plus
6 a copy of those pages and then I had two pages and a copy of
7 those pages.

8 Q. Okay. So you had five pages plus a copy?

9 A. Yes.

10 Q. Of the same five?

11 A. Yes.

12 Q. And then -- and then you had?

13 A. Then I had a set of two pages and also a copy of
14 those two pages.

15 Q. So there's seven pages, but two copies of each?

16 A. Yes.

17 Q. Okay. Did you analyze all four -- all 14?

18 A. Yes, I did.

19 Q. Do you know why you got a copy?

20 A. I don't know.

21 Q. Well, did you -- can you tell which one's the
22 original and which one's the copy?

23 A. I -- I -- yes, I could.

24 Q. Are they different?

25 A. One has handwritten notes on it that I could tell

1 were originals, and you could see the other ones were copies.

2 Q. Okay. So you got one original and a copy of seven
3 pages?

4 A. Yes. And I also had two inserts from the magazine
5 and a glossy card.

6 Q. Okay. Let's just take care of the two inserts and
7 the glossy card from the magazine. What did you do with
8 that?

9 A. The magazine and the glossy card I superglued. All
10 the other pieces of paper, I used ninhydrin.

11 Q. And the magazine and the glossy cards, were you
12 able to detect any latents?

13 A. The magazine did not have any latents of value, but
14 the glossy card did.

15 Q. And tell us about the -- how many latents of value
16 on the glossy cards? Is there a way to distinguish the
17 glossy cards one from the other?

18 A. There's only one card.

19 Q. There's one card?

20 A. Yes, one glossy card.

21 Q. Okay. Where did you get the latent from?

22 A. I have one latent on that card.

23 Q. And did you photograph it?

24 A. Yes, I did. No, excuse me. I lifted that from
25 the -- from the card.

1 Q. Did we talk about lifting them before?

2 A. We did.

3 Q. I thought so. So you lifted that one and put that
4 on the little slide? Is that what you did with it?

5 A. We lifted it and I put it on a card. It's called a
6 latent lift card.

7 Q. Latent lift card. What did you do with the card?

8 A. After I was all done photographing this item and
9 everything I needed to do, then I compared all the latents in
10 values to the known standards in this case.

11 Q. Okay. Maybe I jumped ahead. You lifted a latent
12 on the glossy card and put it on a latent identification
13 card; correct?

14 A. Yes.

15 Q. And then you went through and photographed all of
16 the latents that you detected on the -- on the other pages?

17 A. Yes.

18 Q. Then you analyze -- you compared them?

19 A. Yes.

20 Q. Is that what you mean by analyze?

21 A. Yes.

22 Q. Okay. Let's take the glossy card first. And
23 you -- and you compared them to the knowns, the three knowns
24 that we've been talking about; correct?

25 A. Yes.

1 Q. Okay. What were your results?

2 A. I had one latent print and it was inconclusive to
3 Knapp, Kennedy, and DeMocker.

4 Q. Okay. What did you do next?

5 A. On the various papers, I developed 15 latent prints
6 of value that I compared to the three known suspects -- or
7 standards in the case.

8 Q. You developed 15 latents of value on -- on the
9 seven pages and a copy of the seven?

10 A. On all the pages.

11 Q. Okay. All the pages. I mean, are the latents --
12 the 15 latents that you detected, are they -- are they the
13 same on each page of the seven original and seven copies?

14 A. No.

15 Q. So they're different?

16 A. Yes.

17 Q. Okay. Well, let's go through the original stack
18 first. Is that the best way to try and break this down so
19 it's least confusing to everybody, if that was a question?

20 A. We'll see.

21 MR. BUTNER: Can we have just a moment, Judge?

22 THE COURT: Yes.

23 (Brief pause.)

24 MR. PAUPORE: Thank you.

25 THE COURT: You're welcome.

1 BY MR. PAUPORE:

2 Q. Okay. In the clearest possible way, are we going
3 to go through the original seven pages which are different
4 from the copied pages, or are we going -- or are you going to
5 go through it a different way?

6 A. If I could go through it in the order I took the
7 pictures.

8 Q. Perfect.

9 A. Okay. I also -- were there documents removed from
10 this item?

11 Q. Excuse me?

12 A. Were there documents removed from this item 902?

13 Q. No.

14 A. I don't have everything.

15 Q. You don't have everything there? You're sure?

16 A. I have a copy. I don't have what was contained
17 with this one.

18 Q. So you're missing -- you're missing one from
19 your --

20 A. There's two pages.

21 Q. There's two pages. What pages are missing? Can
22 you tell?

23 A. I can tell on the copy what I have on the copy is
24 not in the original.

25 Q. Okay. Are you certain that you had seven originals

1 and seven copies when you first examined it?

2 A. That's what I wrote in my notes.

3 Q. Okay. Tell us from the -- let's go through your
4 photos as to how you analyzed them and tell us what you
5 found.

6 A. These are all analyzed with ninhydrin and then
7 photographed. So on the copy of the two-page packet, on the
8 front of page 1, I have one latent print, which was
9 inconclusive to Knapp and I excluded Kennedy and DeMocker.

10 Q. Okay. So that's the -- that's the first one that
11 you took a photograph of and did comparison. Inconclusive as
12 to Mrs. Kennedy and exclusion as to Mr. DeMocker?

13 A. No. It was inconclusive to Mr. Knapp, and I
14 excluded Kennedy and DeMocker.

15 Q. Okay. Sorry. Next?

16 A. The second latent I compared was on the original of
17 the two-page packet on the back of page 2, and that was
18 inconclusive to all three people.

19 Q. Okay.

20 A. On the original of the two-page packet of page 2,
21 the front, I have a photograph that contains two latents.
22 They are both inconclusive to all three people.

23 Q. Both prints on the original copy of page 2 is
24 inconclusive to all three?

25 A. Correct.

1 Q. Okay.

2 MR. SEARS: Your Honor, may I ask a
3 explanatory question about this page numbering?

4 THE COURT: Yes. Do you have a copy?

5 MR. SEARS: You know, I have a copy that we
6 were given in disclosure. It's been cropped a little bit,
7 but above what I think are Ms. Daniel's initials and a date
8 of 9/22/08, there's some handwritten page numbers and my
9 question is whether or not those are the page numbers she's
10 using in her testimony today?

11 THE COURT: If you could answer that.

12 THE WITNESS: They're not what I'm using.

13 BY MR. PAUPORE:

14 Q. You're using photographs?

15 A. I'm using the packet as I received it, so one had
16 five pages. So in a packet of five, I have one, two, three,
17 four, and five. I have another packet that had two pages,
18 and each one of those had copies.

19 MR. SEARS: Did anybody write the numbers on
20 those pages 1, 2, 3, 4, 5?

21 THE WITNESS: No.

22 MR. SEARS: So we have to know the order in
23 which you got them. Is the order in which you got them the
24 same order that they're in front of you now?

25 THE WITNESS: Yes. And I'm counting the

1 documents that have the visible highlighting as the
2 originals.

3 MR. SEARS: Okay. Did you write the page
4 numbers that are up in the upper right-hand corner above your
5 initials and the date of 9/22/08?

6 THE WITNESS: No. That's -- all I see is
7 something typewritten from this document.

8 BY MR. PAUPORE:

9 Q. So you did not write your -- your initials or any
10 numbers on any of the -- any of the pages we're talking
11 about?

12 A. The front pages all have my initials and the date
13 and the item number, the front page of each packet.

14 Q. Okay.

15 A. I have four packets.

16 Q. So four pages have your mark on it?

17 A. Yes.

18 Q. And how are you going through the order of prints
19 that you described? Are you describing the pages -- the copy
20 of two, you went through the original of two, and next you
21 are going through what?

22 A. I'm going in the order that I took the photographs.

23 Q. I see.

24 A. And when I'm referring to them, I refer to them
25 either as the copy or the original from the packet of five or

1 from the packet of two.

2 Q. Okay. So your method is numerical number on the
3 photograph that you took?

4 A. That's the order I'm going in, but that doesn't
5 refer to the pages.

6 Q. Right. I understand. But that's the order that
7 you took the photographs?

8 A. Yes.

9 Q. And that's the order you're going to now --

10 A. Yes.

11 Q. -- to tell us what you found?

12 A. Yes.

13 Q. So you went through two photographs so far?

14 A. Yes.

15 Q. And you got 13 more to go?

16 A. Yes.

17 Q. Because you took one photograph for each of the 15
18 latents of value that you developed?

19 A. At least one photograph.

20 Q. At least one. Okay. Let's go to number three.

21 A. Well, I --

22 Q. Number three photograph.

23 A. I believe I already talked about the third.

24 Q. Okay.

25 A. Can we go on to the fourth?

1 Q. Yes.

2 MR. SEARS: Your Honor, we are just totally
3 lost because of this page numbering. I don't have a
4 solution. I could approach the witness. We could do this
5 out of the presence of the jury. We could perhaps move on to
6 something else. But there's no way I can correlate with what
7 we've been given to what the witness is you talking about.
8 We had thought until today that the page information we had
9 had something to do with the -- with DPS's numbering of these
10 pages, but I'm not hearing that from this witness. I just
11 don't know what she's looking at.

12 THE COURT: You'll have to examine that.
13 We're going to take a brief recess. I want to make sure that
14 everybody is clear on the numbering. Thank you. We'll be
15 back in about 10 minutes. Please remember the admonition.

16 (Recess from 4:02 p.m. to 4:40 p.m.)

17 THE COURT: Please be seated. Thank you.

18 The record will show the presence of the
19 defendant, all the attorneys. Ms. Daniel is on the witness
20 stand.

21 Mr. Paupore.

22 MR. PAUPORE: Thank you, your Honor.

23 BY MR. PAUPORE:

24 Q. Erin, we made some changes in the break to try and
25 make this a little simpler. I would like to take and

1 white-out everything that you said when we first started
2 talking about that paperwork and start fresh. I think it
3 needs to be clarified. Are you with me?

4 A. Yes.

5 Q. Now, you got in front of you a document of papers
6 that we were talking about before the break and it's
7 identified for -- it's been marked as Exhibit 3223. Do you
8 have that?

9 A. 3223. Yes.

10 Q. And it's stapled. And we're going to go through --
11 you're going to take us through the 15 photographs you took,
12 and you're ready to go?

13 A. Yes.

14 Q. Okay. Start with number one.

15 A. So on page A1 on the front, I have two latents.
16 The bottom one, the result was it was inconclusive to Knapp,
17 and I excluded Kennedy and DeMocker.

18 Q. Stop you right there. There's two latents on
19 page -- it's identified A1 of that exhibit, the very bottom
20 print, which is the very bottom of the page?

21 A. Yes.

22 Q. Because you have two of them on that page?

23 A. Yes.

24 Q. They're both located in the lower right-hand
25 corner?

1 A. Correct.

2 Q. Okay. Go from there. The first one?

3 A. The latent near the bottom of the page.

4 Q. Okay.

5 A. Inconclusive to Knapp, excluding Kennedy and
6 DeMocker.

7 Q. Okay. Next.

8 A. The other latent just above those, there's actually
9 two latents circled in one circle. They're both inconclusive
10 to all three people.

11 Q. Okay. Okay.

12 A. Page A2 on the front, there's one circled latent.

13 Q. Okay.

14 A. It was inconclusive to all three people.

15 Q. Okay.

16 A. On the back of page A2 --

17 Q. Right.

18 A. -- one latent inconclusive to all three people.

19 Q. Gotcha.

20 A. The front of page A3, one latent, inconclusive all
21 three people.

22 Q. Okay. And that's -- there's a circle there?

23 A. Yes, there is.

24 Q. Every one of them are circled. As you're going
25 through it, I won't ask you every time.

1 A. Yes, they are.

2 Q. Each latent you identified, there's a circle around
3 it?

4 A. Yes.

5 Q. Next.

6 A. Page A4.

7 Q. A4?

8 A. I have a latent circled, but I determined there was
9 no value.

10 Q. Not enough detail?

11 A. Correct.

12 Q. Okay. Next.

13 A. Going on to AX1.

14 Q. Okay.

15 A. There's one latent circled. Inconclusive to
16 Kennedy, excluding DeMocker and Knapp.

17 Q. One inconclusive to Virginia Carol Kennedy and
18 exclusions?

19 A. To DeMocker and Knapp.

20 Q. Okay.

21 A. AX2 one latent in the bottom corner was identified
22 as Knapp's right thumbprint.

23 Q. Okay. Hang on a minute. So the page that is
24 referenced on your copy AX2 --

25 A. Correct.

1 Q. -- you've got identification for James Knapp's
2 right thumbprint?

3 A. Correct.

4 Q. Continue.

5 A. Page AX4, one latent, inconclusive to all three
6 people.

7 Q. Okay. Next.

8 A. Page B1, one latent, inconclusive all three people.

9 Q. Page labeled B, as in Baker, 1?

10 A. Correct.

11 Q. One latent, inconclusive all three, all three
12 knowns?

13 A. Yes.

14 Q. Okay.

15 A. Page B2, the latent near the bottom of the page,
16 inconclusive all three people.

17 Q. All right.

18 A. Same page B2, there are two latent prints circled
19 with one circle. They are both inconclusive to all three
20 people.

21 Q. Okay. So B2 actually has three latents on it?

22 A. Correct.

23 Q. Located different locations on that document?

24 A. Correct. I have two circles.

25 Q. Two circles, but one circle contains two latents?

1 A. Correct.

2 Q. And inconclusive to everybody?

3 A. Yes.

4 Q. To the three knowns?

5 A. Yes.

6 Q. Okay.

7 A. The back of page B2, one latent, inconclusive all
8 three people.

9 Q. Okay.

10 A. Page BX1, one latent, inconclusive to Knapp,
11 excluding Kennedy and DeMocker.

12 Q. Okay. That's BX1?

13 A. And that is the end of the latents from these
14 papers.

15 Q. Come again?

16 A. That's it.

17 MR. PAUPORE: May I approach, your Honor?

18 THE COURT: Yes, you may.

19 BY MR. PAUPORE:

20 Q. What's this? The very back?

21 A. That one. I just didn't take a picture of it.
22 There was no find.

23 Q. Okay. What is it? I'm going to ask you about --
24 what's that marked in yours? BX2. In that exhibit you have
25 a page that's marked BX2?

1 A. Yes.

2 Q. Looks like there's a purple print in the lower
3 right-hand corner?

4 A. Yes, there's some ridge detail in the corner.

5 Q. All right. Do you know what that is?

6 A. It's a smudge and some ridge detail.

7 Q. Is that something that you detected when you were
8 going through the documents?

9 A. I -- it's from the ninhydrin. It's developed with
10 ninhydrin, but I didn't take any photographs of it.

11 Q. So you didn't compare it with anybody?

12 A. Correct. It doesn't have any value to be able to
13 compare.

14 Q. It doesn't have any value because it's not clear
15 ridge detail?

16 A. Right. There's not enough there.

17 Q. Okay.

18 A. Okay.

19 Q. So that would be inconclusive or nothing?

20 A. Nothing. It would have no value for comparison, so
21 I didn't even make a comparison.

22 Q. Erin, I just have a follow-up question in a
23 document that we were talking about, Exhibit 3222. There's
24 one -- I want to ask you because you've got the prints
25 circled in black.

1 A. Yes.

2 Q. One of them is kind of hard to find in that
3 document. Can you locate the fourth -- I'm not sure which
4 series, but there's a fourth latent.

5 MR. BUTNER: For the record, what exhibit
6 number is that, please?

7 MR. PAUPORE: 3222.

8 MR. BUTNER: Thank you.

9 THE WITNESS: One of the four latents that I
10 developed on item 852 is in the upper corner where it's
11 stapled.

12 BY MR. PAUPORE:

13 Q. It's behind the staple?

14 A. Yes, it is.

15 Q. So you have to peel the edge back to see where the
16 actual latent's at?

17 A. Yes.

18 MR. PAUPORE: Okay. Thank you.

19 Your Honor, that's all the questions I have of
20 Erin Daniel.

21 THE COURT: Thank you, Mr. Paupore.

22 Mr. Sears, do you have some questions you
23 could begin with?

24 MR. SEARS: I do. I'm certainly not going to
25 finish in the next nine minutes. If you want to break now,

1 that would be fine. I could ask a few questions and pick it
2 up in the morning.

3 THE COURT: Why don't we go ahead and work
4 until 5:00. We had quite a lengthy break. If you're
5 prepared, Mr. Sears, I'd ask that you proceed.

6 MR. SEARS: I do. Thank you.
7

8 C R O S S - E X A M I N A T I O N

9 BY MR. SEARS:

10 Q. Ms. Daniel, let's go back -- you've been here all
11 day talking. Let's go back to one of the first things we
12 talked about here today, which was your training and
13 experience. And so when you said that you have five years,
14 that's as of now; is that right?

15 A. Correct. I have over five years currently.

16 Q. So you would have had something over three years
17 when you did the bulk of the work in this case in 2008; is
18 that right?

19 A. That's correct.

20 Q. Okay. And are there other fingerprint analysts
21 that were working in the Northern Regional Crime Lab in
22 Flagstaff in the summer of 2008 other than yourself?

23 A. Yes, there were.

24 Q. And did you have a practice of when an
25 identification or an exclusion was made of having another

1 analyst review your work independently to confirm your
2 conclusions?

3 A. Yes. At that time we didn't do exclusions. But at
4 that time we did identifications, and those are always
5 verified by other latent print examiner.

6 Q. And you told me when we spoke in March of this year
7 that the -- the descriptive terms that you've used here today
8 changed between the time you first began to work on this case
9 and today; is that right?

10 A. That's correct. Our -- our conclusions that we
11 could come to changed.

12 Q. So today you have three possible conclusions?
13 There's an identification; correct?

14 A. Yes.

15 Q. Some people have described that as a match. You
16 would say that a particular known fingerprint from somebody
17 matched a latent print from someplace else; correct?

18 A. Yes.

19 Q. That's an identification?

20 A. Yes.

21 Q. And then exclusion is the opposite of that is that
22 you could say conclusively in your opinion that the source of
23 the known print these 10 print cards or some other known
24 print did not make a latent print in your examination;
25 correct?

1 A. That's correct.

2 Q. And then everything in the middle between those two
3 extremes now is described by the DPS crime lab as
4 inconclusive; is that right?

5 A. Correct.

6 Q. And you told us here today and you told me back in
7 March that your best definition of inconclusive was that for
8 one reason or another, there was not enough information from
9 the latent print to allow you to make either an
10 identification or an exclusion? That's the general
11 definition of inconclusive; right?

12 A. Right. It could be not enough information in the
13 latent or in the known print.

14 Q. Okay. And this case is a good example. You told
15 us the problems that the poor quality of known prints from
16 Carol Kennedy have caused when you have a poor quality latent
17 that you're trying to identify and a poor quality known and
18 you try to compare those, that creates problems; right?

19 A. Yes.

20 Q. And it did in this case; right?

21 A. Yes, it did.

22 Q. But you had major case prints rolled properly for
23 my client, Mr. DeMocker, and for this James Knapp; right?

24 A. Yes, I did.

25 Q. Now, did you have any idea or do you have any idea

1 how James Knapp relates to this case?

2 A. I know some things that I've heard from detectives.

3 Q. Okay. But you don't have any personal knowledge?

4 A. No, I don't.

5 Q. You've never met him?

6 A. No.

7 Q. Okay. And those were the three known prints that
8 you were working with? You had Mr. DeMocker, Mr. Knapp, and
9 Ms. Kennedy; correct?

10 A. Yes.

11 Q. All right. And let me see if I can understand.
12 You talked about three places at the crime scene where you
13 tried to take latents and they were all in the room where the
14 body was found; right?

15 A. Yes.

16 Q. Okay. Those are the places where you found
17 something of value; correct?

18 A. Those -- those are the places that I -- the items I
19 analyzed for fingerprints at the scene.

20 Q. And the principal reason you did that was because
21 they were large things, they were the ladder, and they were
22 the bookcases, and you knew that they weren't going to be
23 shipped to the crime lab for fingerprinting identification;
24 right?

25 A. Yes, along with the fact that they seemed to be

1 handled or moved.

2 Q. That was just your observation?

3 A. Correct.

4 Q. Okay. They were in the room. They seemed to be --
5 the bookshelves were knocked over and the ladder was in an
6 unusual place; right?

7 A. Yes.

8 Q. And what was the third item?

9 A. The doorknob.

10 Q. Okay. The doorknob hadn't been moved?

11 A. It could have been moved to open the door.

12 Q. Right. But it was still attached to the door when
13 you saw it?

14 A. Yes.

15 Q. Okay. And you think that the doorknob that you
16 processed for latent print was the inside doorknob on the way
17 to the outside; is that right?

18 A. Yes. I know that.

19 Q. Okay. And is it the same doorknob that had the
20 possible blood on it that you photographed with Kortney
21 Snider?

22 A. It's the same -- I think it's the same doorknob,
23 but I think that was the exterior, and I looked for latents
24 on the interior.

25 Q. Because the interior doorknob had a lever handle?

1 That's how you would get out? You would push the handle down
2 and push the door open; right?

3 A. I don't remember.

4 Q. Okay. I'll show you a picture here in a bit. But
5 you wouldn't expect to see a lever on the outside of the
6 house; right? You would just see a doorknob; right?

7 A. I don't know.

8 Q. You're not a locksmith?

9 A. I'm not.

10 Q. Okay. Just for -- just common sense if you wanted
11 to keep people out of your house, you wouldn't put a handle
12 on the outside that you could just push to open the door;
13 right? That wouldn't make any sense?

14 A. If you had a deadbolt, you would probably be okay.

15 Q. You don't remember here today --

16 A. I don't.

17 Q. -- what it looked like? Okay.

18 Now -- and you looked at a number of other
19 places in the house for possible latent prints; is that
20 right?

21 A. I did look around the rest of the house.

22 Q. Now, you looked at what Mr. Paupore kept referring
23 to as a doorknob. It's evidence item 804. That was on a
24 door to the outside of the house off the living room area.
25 Do you remember being in that area?

1 A. I was in that area, yes.

2 Q. Okay. What you were actually looking at was a
3 deadbolt assembly and not a doorknob; right?

4 A. Yes.

5 Q. Do you know the difference between a doorknob and a
6 deadbolt?

7 A. Yes.

8 Q. Okay. And what you were looking at, 804, is a
9 deadbolt assembly; right?

10 A. Yes.

11 Q. And where else did you look inside the house for
12 latent prints?

13 A. That was it. I -- I focused mainly on the -- on
14 the office room.

15 Q. Okay. Did anybody tell you to stop looking for
16 latent prints after you had looked in the room where the body
17 was and that one deadbolt assembly?

18 A. I don't remember.

19 Q. Okay. You have a crime scene where you have a
20 person that's been brutally murdered just lying there right
21 in pools of blood. It was a really horrible scene; right?

22 A. Yes.

23 Q. Okay. And there's no suspect apprehended? There's
24 nobody caught right at the scene? That was your
25 understanding; right?

1 A. Yes.

2 Q. Well, fingerprint evidence can be very important as
3 part of an investigation of a difficult or confusing crime
4 scene; correct?

5 A. Yes.

6 Q. Okay. Wouldn't it make sense if you weren't
7 pressed for time to start thinking about all the other places
8 in that house, just in the house now, where latent
9 fingerprints might be left; correct?

10 A. I don't know what that question part of that was.

11 Q. Okay. Well, there are mirrors in the house. There
12 are mirrors in the bathrooms of the house; right?

13 A. I assume so. I don't remember.

14 Q. Okay. Did you go and look at the bathroom mirrors
15 in the house?

16 A. No.

17 Q. Did anybody look for you and tell you that they
18 didn't see any latents?

19 A. I don't know.

20 Q. Okay. You told Mr. Paupore that one of the good
21 surfaces for -- for possible latent prints is glass; right?

22 A. Yes.

23 Q. And there were glasses in the house, weren't there,
24 glasses in the cupboards?

25 A. I would assume so.

1 Q. And there were all kinds of countertops, different
2 kinds of countertop surfaces; right?

3 A. I would assume so again.

4 Q. You didn't go into the kitchen?

5 A. I did, but I don't have the house memorized.

6 Q. Well, the police are combing the entire house;
7 right? They're not just investigating the room where the
8 body was? They're looking all over the house; right?

9 A. Yes.

10 Q. Well, if you only looked in the room where the body
11 was, how can you say that there weren't useable latent prints
12 all over the rest of the house?

13 A. I would guess that there would be latent prints
14 throughout the rest of the house from the people that lived
15 there.

16 Q. Well, surely you were not just trying to identify
17 the fingerprints of my client; right? I mean, this was an
18 investigation; right?

19 A. Correct. I would be looking for fingerprints of
20 people that do not belong in that house.

21 Q. Okay. Or maybe people that belong in the house,
22 but did something terrible in there; right?

23 A. Sure.

24 MR. SEARS: I think this would be a good time.

25 THE COURT: Thank you, Mr. Sears.

1 Ladies and gentlemen, we will take the evening
2 recess. Remember the admonition, of course. Please be back
3 in the jury room by 9:15 tomorrow morning, 9:15. See you
4 then. Thank you.

5 (Proceedings concluded at 5:00 p.m.)

6 ---oOo---

REPORTER'S CERTIFICATE

The above and foregoing is a true and complete transcription of my stenotype notes taken in my capacity as Acting Official Reporter of Yavapai County Superior Court, Kathy Johnston, Certified Reporter No. 50164, Division Six, at the time and place as set forth.

Dated at Prescott, Arizona, this 29th day of June, 2011.



KATHY JOHNSTON
Certified Reporter No. 50164
Registered Professional Reporter

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